

MINUTES OF THE ZONING BOARD OF APPEALS
June 11, 2012

The regular meeting of the Zoning Board of Appeals was called to order by Chairman William Cotey at 7:02 p.m. at the Village Hall.

Members present: Chairman William Cotey, Scott Adams, Mark Moore, Walter Oakley, David Semmelman, and Kurt Schultz.

Members absent: Dan Donahue.

A quorum was established.

Village Staff present: John Spoden, Director of Community Development; and Matthew Rejc, Planning Intern.

Board Member Adams moved, seconded by Board Member Schultz, to approve the May 14, 2012, Zoning Board of Appeals meeting minutes.

Motion carried 6 - 0.

OLD BUSINESS: None.

NEW BUSINESS:

**ZBA 12-14 Mary Cramer, Applicant
939 Sherborne Court**

Request is for variations to: 1) allow a fence in the corner side yard that extends beyond the rear building line of the principal structure; and 2) allow a fence in the corner side yard so that the fence line is located closer to the street than the front yard established for the abutting lot for property in an R-3 Single Family Residential District.

(Board Member Moore recused himself from this item due to a business relationship with the applicant.)

Mr. John Spoden, Director of Community Development, stated that the petitioner, Mary Cramer, is requesting variations to extend a fence in the corner side yard beyond the rear building line of the principle structure on the property, and also to allow a fence line for a fence in the corner side yard to be located closer to the street than the front yard established for the abutting lot.

Ms. Mary Cramer, petitioner, then explained more details about the proposed fence project, including that the yard where she proposes to build the fence is her back side yard, but her neighbor's front side yard. She also said that she has support for the project from her neighbor Mr. Suydam, that she walked through the property with Mr. Jim Barlow, Superintendent of Parks, and Mr. Matusek, who approved the proposed fence and told her how to accommodate the

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trees near it, and finally that she wants the proposed fence for her safety after she moves into this home. Ms. Cramer also expressed other safety concerns, notably that children playing near the house could be put in a dangerous situation without a fence in place, especially since cars routinely drive over 35 mph near her house. She stated that she would prefer to have a fence to provide privacy from people walking or jogging by. The petitioner noted that objects have been stolen from her property. Ms. Cramer additionally discussed her concerns regarding safety. Ms. Cramer presented photos of other fences in the area. She also stated that the property line would be set 10 feet further back than what is seen in properties outside the subdivision.

No audience comment was given on this subject.

Board Member Oakley asked the petitioner about the tree situation with regards to the proposed fence, and Ms. Cramer responded that she would not remove any trees during the proposed work.

Board Member Oakley asked the petitioner about her brochure exhibit, and the petitioner responded by displaying multiple pictures from the exhibit, including those of examples from the intersection of Wellington Avenue and Winchester Road, where two houses exist that are in a similar situation. The exhibit also included other such examples as ones on Jeremy Lane and on the Langworthy property, as well as in other locations.

Board Member Oakley requested clarification of how far the proposed fence would be set back, and the petitioner responded that it would be set back 10 feet further than the fence shown on Langworthy property in the exhibit.

Board Member Oakley inquired with regards to how the fence would fare in the winter months when snow plows clear the streets. Ms. Cramer responded that her house is about 6 feet higher than the surface of Winchester Road and the fence is set back 10 feet, and consequently any snow plow would have to be moving unusually fast to hit the fence with snow.

Board Member Adams asked about field of vision problems posed by the fence. Mr. Spoden stated that no vision issues exist with regards to the fence.

Chairman Cotey asked if a fence could exist without a variation. Mr. Spoden stated that a fence could not go any further north than the house without a variation.

Board Member Schultz questioned the location of the fence for its purpose. Ms. Cramer reiterated the safety benefit that the proposed fence would provide.

Board Member Schultz inquired if the privacy could be created with a natural feature rather than a fence. He also stated that he would be more supportive of the petitioner if the fence was connected to the house.

Chairman Cotey requested the petitioner to go through the Standards for Variation.

Chairman Cotey asked the petitioner how far set back the proposed fence would be from the petitioner's landscaping. Ms. Cramer replied that the landscaping she planted is at least 2-3 feet

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away from the proposed fence location, while the larger trees on her lot are as close as 18 inches to the proposed fence location.

Chairman Cotey asked if the any of the proposed work would violate the sight distance triangle for vehicles traveling on the nearby roads. Mr. Fred Chung, Senior Project Engineer, replied that no conflicts with the sight distance triangle exist regarding the proposed work. Chairman Cotey also asked if any other engineering issues existed regarding the plan, and Mr. Chung responded that no other issues existed.

Mr. Spoden stated that the petitioner's response was received on May 10, 2012.

Chairman Cotey asked if that can be accepted as the reply for Standards for Variation. Mr. David Pardys, Village Attorney, responded that it is up to the Board whether or not the letter can be accepted.

Chairman Cotey stated that the letter does not meet the necessary requirements of the reply for Standards for Variation because it does not show that the fence is not self-created, and as a result, the Chairman suggested a continuance on this matter.

Ms. Cramer stated that she thought the house in question would sell on the market, but stated that all prospective buyers have been turned away due to the lack of a fence in the proposed location. Ms. Cramer stated that Winchester Road is the reason that her home will not sell.

Chairman Cotey stated that a continuance would push the matter to the July 9, 2012 Zoning Board of Appeals meeting.

Ms. Cramer stated that she considered a split fence, but expressed concern that people could still see through it.

Chairman Cotey stated that the petitioner should meet with Staff, resolve issues, and return in July.

In the matter of ZBA 12-14, Board Member Oakley moved, seconded by Board Member Schultz, to continue this item to the July 9, 2012, Zoning Board of Appeals meeting.

Motion carried 5 - 0.

Ayes: Cotey, Adams, Oakley, Semmelman, Schultz

Nays: None

Absent: Donahue

ZBA 12-12 Corporate Design + Development Group, LLC, Applicant
704 N. Milwaukee Avenue

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Request is for a variations for signs in order to install new signs for a Gasoline Station with Mini-Mart in a C-1 Downtown Core Commercial District.

(Board Member Moore recused himself from this item due to a business relationship with the applicant.)

Mr. John Spoden, Director of Community Development, stated that the petitioner wants to refurbish a canopy and remove and reconstruct a mini-mart. Mr. Spoden also stated that the petitioner needs a Special Use Permit and a Site Plan Permit. The petitioner also expressed a desire for a Text Amendment to Section 5 of the Zoning Code. Mr. Spoden stated that the Zoning Code requires properties to build to the front of the property line for properties that front Milwaukee Avenue in the C-1 District. He stated that the canopy for this property is counted as an accessory structure, while the mini-mart is considered the primary structure. Mr. Spoden stated that the petitioners are asking for a Text Amendment that excludes gas stations from this requirement. Mr. Spoden also stated that the petitioners are asking for adjustments to the signage requirements in the C-1 Downtown Core Commercial District.

Mr. Chris Kalischefski, President, Corporate Design Group, LLC, stated that he has included Appearance Review Commission recommendations for changes in the revised plan of the development. The petitioner stated that without the canopy for the facility, it has no functionality, and that the idea of a stand-alone mini-mart without a gas station has been proven to fail. The petitioner stated that patrons are drawn in by the pumps, which will be illuminated by LED lights in the proposed development for security, and that the pumps truly drive the property while the C-store is secondary. The petitioner stated that oil companies do research into designs for gas stations and they want this model because research supports its ability to succeed. The petitioner stated that the gas station in question is the only gas station in a C-1 Downtown Core Commercial District. The petitioner stated that they are going before the Commission to prevent the likely failure of the facility if they are forced to put the C-store in the front of the property, while he also mentioned that moving the store would necessitate moving the gasoline tanks, which is costly. The petitioner stated that the new design for the facility would mimic the architecture of the Village. The petitioner stated that the sign in the corner of the property will be moved away from the corner to protect the sight distance triangle between Newberry Avenue and Milwaukee Avenue. The petitioner stated that he is only asking for two of the three allowable signs on the canopy. The petitioner stated that significant funds are being put into the landscaping, while the trees at the front of the property will be kept in addition to the planters. The petitioner expressed a desire to remove a guardrail if it is on his property and within his power to do so. The petitioner stated that he will repave and restripe the pavement on his property, and then reinforced that from his perspective, the canopy is the primary part of the property.

Chairman Cotey asked for audience input, and none was given. Chairman Cotey then opened up discussion of the project to the Board regarding the Text Amendment.

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Board Member Schultz asked the petitioner for his idea of the end goal of the construction project. The petitioner responded that the C-store needs refurbishing and that infrastructure is insufficient and needs to match Shell standards. The petitioner stated that with that many improvements taking place, they might as well bring the whole facility up to the architectural language of the downtown. Mr. John Graham, petitioner, stated that the current facility provides an underserving atmosphere to customers, and better facilities are needed, especially since the facility was never built to be a self-service gas station.

Board Member Schultz stated that the plans are a vast improvement over the gas station as it currently exists, and he also stated that the ultimate question is whether or not the Village wants to support a gas station in that location at all.

Mr. Graham stated that even if it were financially sound to only operate a C-store and place it next to the street, it would necessitate the costs involved in switching the location of the C-store. Mr. Graham stated that it is almost impossible to access the facility from Newberry Avenue due to the change in elevation.

Board Member Semmelman asked why the canopy is not considered the primary structure by the Village. Mr. David Pardys, Village Attorney, stated that the principal structure on the property is the mini-mart and that the canopy is not the principal structure as it is accessory to the principal structure.

Mr. Graham stated that the convenience operation generates about 20% of his business, and consequently his definition of primary structure is different. Mr. Graham stated that gas stations were not imagined in the Code when it was originally written.

Board Member Semmelman stated that the Village would not want to replace the facility currently in place with nothing.

Board Member Adams stated that he would view the canopy as part of the main structure and he is in favor of the petitioner's presentation. Board Member Adams stated that what was shown in the presentation is better than what is currently in place.

Board Member Oakley asked Mr. Graham how long he will still be operating that particular facility, and he cited the relatively rapid turnover of gas station operators.

The petitioner stated that Staff assisted in drafting the Text Amendment. He noted that he knows he must have the Text Amendment as well as the Site Plan Permit to proceed with the improvements.

Mr. Spoden stated that an ordinance from 2004 governs the property's signage. This allows 78 square feet of signage and Staff has calculated the proposed signage to be 119 square feet without counting the pump toppers.

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Chairman Cotey verified that the total signage would increase from 78 square feet to 119 square feet, which Mr. Spoden affirmed as the correct new signage amount excluding the pump toppers.

The petitioner stated that no new pumps are proposed to be added, but the pump toppers must be included in the total amount. Mr. Graham stated that the pump toppers are proposed to be two square feet in size, and the pump toppers are directed to the customers fueling at the pump rather than at the road.

Board Member Oakley stated that the total amount of signage is now 127 square feet for the facility.

Mr. Graham stated that other signs were removed, but he was not sure if they were shown in his exhibits.

The petitioner stated the freestanding sign is not in the sight distance triangle and that landscaping has been adjusted. Mr. Graham stated that they think they have an opportunity to be successful at this gas station, but the sign and everything else they are proposing will make them successful. The petitioner stated that smaller signs are difficult to read. Mr. Graham stated that the "Maverick" sign over the C-store signifies them as an expert in that field, rather than merely an offshoot of the gas station, while he also stated that the signs not only show prices, but also alliances with other companies.

Chairman Cotey requested that the petitioner discuss their landscape plan.

The petitioner stated that they will maintain the center island and that the planters will be left alone. The petitioner stated that they will be renovating the front side landscaping, much of which can be seen from the street.

Mr. Spoden stated that the guard rail near the gas station is on this property and confirmed that it will be removed.

Chairman Cotey decided to address the Plan Commission comments, the first of which regarded parking spaces 2, 3, and 4 which did not meet the proper dimensions. Chairman Cotey asked if this issue was rectified in the proposed plans. The petitioner stated that the issue has been rectified.

Chairman Cotey asked where the electrical equipment will be located and what kind of screening will be around it. The petitioner stated that the air conditioning units will be located on top of the building. Mr. Graham stated that they will be screened by parapet walls on the roof.

Chairman Cotey asked if parapet walls qualify as screening. Mr. Spoden responded that a parapet wall would satisfy the requirement.

Board Member Schultz asked where the roofline for the C-store is located, and the petitioner stated that it is located in the back of the property and is higher than the front.

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Chairman Cotey addressed the third issue, and the petitioner responded that the issue has been rectified.

Chairman Cotey addressed the fifth issue and stated that the Parks Department noted that two Linden trees exist on the north side that are in good condition. The Parks Department also noted the plant beds on the facility's property.

The petitioner stated that those pieces of landscaping will not be touched.

Chairman Cotey addressed the Building Division comments.

Mr. Spoden mentioned the State requirement for discharge path slopes and stated that it was an issue for them to address at the time of permit.

Chairman Cotey stated that he hoped there would be no flooding problems.

Mr. Graham stated that he also discussed the handicap issue regarding the slopes, and Mr. Spoden affirmed that he had.

Chairman Cotey stated that the trees on the property should be identified by a certified arborist. Chairman Cotey stated that the facility should have addressed issues with Metra and issues of people walking across Milwaukee Avenue, while he also asked if the petitioner provided the Engineering Department with materials. Chairman Cotey asked the petitioner if he agreed with comment #6, and the petitioner stated that he did.

Board Member Schultz asked about the proposed lighting at the facility. The petitioner responded that all lighting would be of the LED variety, which provides better security to customers and gives more light in general. The petitioner stated that the lighting hours would be from 5:00 p.m. to midnight and from 7:00 p.m. to midnight on Sundays underneath the canopy structure only.

Board Member Schultz wanted to verify that nothing would be on the north and south property lines, and the petitioner responded that nothing would be in those areas.

Board Member Schultz noted that gooseneck lighting was on the building, while the petitioner confirmed that statement by saying that gooseneck lighting was on both sides and in front of the building.

Board Member Schultz asked about the glow of the convenience store and how much more lighting will be added. The petitioner stated that the existing 2' x 2' lights will be replaced by 2' x 2' LED lights, which will illuminate the property, the lot, and little else as a result of blowing light.

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Board Member Schultz stated that he was concerned with the amount of glaring on the facility, and asked what gets turned off in the C-store. The petitioner stated that one light is left on in the canopy and another is left on in the C-store.

Board Member Schultz asked about how the main sign will be lit. Mr. Graham stated that only the Shell sign will be lit at night as well as the numbers, making it less of a sign as a result.

Board Member Schultz asked if tank replacement will take place. Mr. Graham responded that it will not, and that it was put in place recently, and that the modern leak detection equipment is effective.

Board Member Semmelman stated that he was in favor of the project, but would prefer to see a reduction in the amount of signage.

Board Member Adams stated that he too was in favor of the project, but would prefer to see a reduction in the amount of signage.

Board Member Oakley stated that he was in agreement with Board Member Adams, and asked where the ice machine and propane tanks will be located. Mr. Graham stated that the ice machine will be located inside while the propane tank will be located in the south corner by the C-store.

Board Member Adams asked about the halo lighting around the Shell emblem on the facility's sign. The petitioner stated that just the Shell emblem will be illuminated and it will not emit much light.

Chairman Cotey asked Mr. Graham how familiar he is with the ongoing projects in the Village. Mr. Graham responded that he is aware of them.

Chairman Cotey stated that Mr. Graham has been before the Commission several times in the past, and that the proposed aesthetics work better than the typical Shell package, but the proposed signage inappropriate. Chairman Cotey stated that he somewhat supports the text amendment, but is not quite in agreement yet. He expressed his dissatisfaction with the proposed signage and the facade, and stated that the facility should be content with 78 square feet. Chairman Cotey asked for the height of the facility's main sign. The petitioner responded that it is 17.8 feet high. Mr. Graham stated that it is almost pointless to have a smaller sign.

Chairman Cotey stated that Mr. Graham has no evidence to support his previous statement and that he can trim the size of the sign, and that Mr. Graham and Shell can accommodate Libertyville's downtown more fully. Chairman Cotey stressed that the station could benefit both the downtown and the new developments. Chairman Cotey asked the petitioner and Mr. Graham if they would like to go to a vote. The petitioner and Mr. Graham stated that they do want to go to a vote.

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Mr. Spoden asked for verification that the variance is increasing signage from 78 square feet to 127 square feet. Mr. Pardys verified that the signage was being increased from 78 square feet to 127 square feet.

Mr. Spoden stated that the number of signs must also be taken into account. Mr. Spoden asked if the facility was adding any wall-mounted signs. The petitioner stated that no wall-mounted signs are proposed.

Mr. Spoden stated that this is an increase from 3 signs to 7 signs, which include two canopy signs, a freestanding sign, and four pump toppers.

Chairman Cotey asked for clarification that the increase involves moving from 25 square feet of signage to 127 square feet, and from 3 signs to 7 signs. Mr. Spoden verified those numbers.

In the matter of ZBA 12-12, Board Member Oakley moved, seconded by Board Member Adams, to recommend the Village Board of Trustees approve variations for signs in order to install new signs for a Gasoline Station with Mini-Mart in a C-1 Downtown Core Commercial District, in accordance with the plans submitted.

Motion failed 0 - 5.

Ayes: None
Nays: Cotey, Adams, Oakley, Semmelman, Schultz
Absent: Donahue

COMMUNICATIONS AND DISCUSSION:

Board Member Semmelman moved, seconded by Board Member Schultz, to adjourn the Zoning Board of Appeals meeting.

Motion carried 6 - 0.

Meeting adjourned at 8:56 p.m.