

MINUTES OF THE ZONING BOARD OF APPEALS
April 27, 2009

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

Members present: Vice Chairman Kurt Hezner, William Cotey, Terry Howard, Howard Jaffe, Walter Oakley, and Andy Robinson.

Members absent: Chairman Mark Moore.

A quorum was established.

Village Staff present: John Spoden, Director of Community Development; David Smith, Senior Planner; and Pat Sheeran, Project Engineer.

Board Member Robinson moved, seconded by Board Member Oakley, to approve the March 23, 2009, Zoning Board of Appeals meeting minutes.

Motion carried 6 - 0.

OLD BUSINESS: None.

NEW BUSINESS:

ZBA 09-07 MJK Real Estate Holdings/Libertyville LLC, Applicant
121-139 N. Milwaukee Avenue
147-163 N. Milwaukee Avenue

Request is for variations to reduce the minimum required Perimeter Landscaped Open Space in order to construct a commercial facility in a C-2, Downtown Community Commercial District.

ZBA 09-08 MJK Real Estate Holdings/Libertyville LLC, Applicant
121-139 N. Milwaukee Avenue
147-163 N. Milwaukee Avenue

Request is for variations for signs in order to construct a commercial facility in a C-2, Downtown Community Commercial District.

Mr. Orlando Vivacqua, architect with Kurtz Associates, presented plans for a new retail development at the former Dodge site on South Milwaukee Avenue. Mr. Vivacqua outlined the request for a Special Use Permit and Site Plan Permit for a Drive-In Establishment accessory to an Eating Place in a C-2, Downtown Community Commercial District. He reviewed that the proposed north building is 8,640 square feet of retail and restaurant and the south building is proposed to be 9,848 square feet.

Minutes of the April 27, 2009, Zoning Board of Appeals Meeting
Page 2 of 5

As outlined in the Staff Report, a total of 94 required parking spaces are needed by Village Code. The proposal includes 100 spaces. The buildings have been architecturally approved by the Appearance Review Commission and located along the street frontage in line with the Village's Comprehensive Plan.

Mr. Vivacqua also review the requested variations for Perimeter Landscape Open Space to allow an encroachment along the north property line with a refuse enclosure and sidewalk.

A discussion then ensued regarding the proposed sign variations for the site. The Board Members stated that no freestanding signs are proposed for the site.

Mr. Vivacqua noted that new elevations are presented this evening that incorporate additional glass and that the use of EFIS has been eliminated from the building.

Dr. Vincent Arpino, 109 W. Maple Avenue, submitted an exhibit demonstrating how the proposed dumpster location could affect his existing business. He requested that the dumpster be moved to the northwest corner of the site. He also stated that the water issue needs to be addressed at this site and that he was very concerned with the overland drainage. Dr. Arpino stated that the elevation change makes it possible for individuals on the subject property to see into his established business. He stated the snowplowing will be an issue in this area and that there needs to be additional landscaping on this property line.

Mr. Joe Newman, 126 E. Maple Avenue, representing St. Joseph's Parish, stated that the church is concerned with the extent of the proposed sign variations. He stated that the church is concerned that the sign package is not discreet and more refined like the signs in the downtown. He stated that the church does not wish to see a mass of signs on the proposal.

Vice Chairman Hezner inquired as to whether the petitioner owns the property or has a contract to own. The reply being they have a contract to own the property.

Vice Chairman Hezner inquired whether the petitioner met with all surrounding property owners. The reply being that the developer met with Dr. Arpino, but was not sure about the remaining property owners.

Vice Chairman Hezner inquired regarding the construction timeline for the project. The reply being they would propose to start in early June to request building permits.

In regard to phasing, the petitioner stated that the proposal to do both of the buildings at one time could change due to the existing market conditions. If necessary, the south building would be constructed first with all improvements, including the parking lot, completed. The pad for the north building would simply be grassed over until such time that it was constructed.

Vice Chairman Hezner inquired as to whether they had secured IDOT approvals for their access to Milwaukee Avenue. Mr. Curtis Smithson, RMGH Engineers, stated they have met with

Minutes of the April 27, 2009, Zoning Board of Appeals Meeting
Page 3 of 5

representatives from IDOT and have received preliminary approval for their striping and left-hand turns. He stated they are waiting on a letter confirming approval.

Vice Chairman Hezner stated that he was very concerned that the petitioner did not propose the development as a Planned Development. He stated it will be very difficult for them to prove a hardship or practical difficulty on the number of variations requested for the site. He also stated that the petitioner may consider lowering the light standards in the rear portion of the property to ten (10) feet. He understood that the proposal meets current Code, but there still may be light glare issues from the site that have to be dealt with. He also stated that he has a concern with the lack of detention on the site and how the overland flow will be addressed.

Mr. Pat Sheeran, Project Engineer, stated that as proposed, the overland flow will be addressed through new structures.

Mr. Smithson stated that the 100 year event will remain without the confines of the proposed structures as designed.

Vice Chairman Hezner inquired if they have secured an easement for the proposed storm drainage for the property to the north. Mr. Smithson replied that they have not yet secured an easement from Dr. Arpino, but clarified that there will be less impervious area on the site with the proposed development than with the existing paved areas.

Vice Chairman Hezner stated that he understood IDOT requirements would not allow more than a 35 foot wide access way to Milwaukee Avenue. He stated a taper would have to be involved within the site. He then noted that the petitioner is proposing an extravagant sign variation request including number, size, and location. He also stated that he is concerned about the plane of the building and that the facade does not have any undulation which might further relate it to the downtown. He stated he was pleased with the overall layout for the site and the use of masonry for the building.

Board Member Robinson stated that he also liked the layout for the site. He questioned whether additional handicap parking would be necessary for the development. He stated he did not support the phasing plan approach and that if they had to go with one building at a time, that the north building should be constructed first. He stated he was very concerned with the number and size of the proposed signs. He stated that using the other Dunkin Donuts locations and their supposed lack of signage as an argument to increase signage at this location does not work. He stated that the lot to the north is an issue as it is difficult for traffic to egress from the site during morning peak hours.

Board Member Howard stated that the development should be a Planned Development. He stated that there should be a Unified Sign Criteria, but that what they are proposing is excessive for the site and that variations of this extreme are not necessary. He requested that the lights in the back be lowered to ten (10) feet per Vice Chairman Hezner's suggestion. He also stated that the site drainage needs to be further understood and that the petitioner should clarify their final drainage route.

Minutes of the April 27, 2009, Zoning Board of Appeals Meeting
Page 4 of 5

Dr. Arpino stated that the developer had only talked with him once. He stated he was not opposed to talking with their engineer.

Board Member Howard stated that the developer needs to sit down with all surrounding residents and work out the issues before coming back to the Zoning Board of Appeals.

Board Member Jaffe stated that he was more agreeable with the proposed signs than his fellow Board Members, but that he would support a Planned Development for this site. He stated there should be consistency with the sign program. He requested that the petitioner consider moving the north dumpster as previously discussed. He also stated that if the project is phased, the entire parking lot should be constructed at the initiation of construction.

Board Member Cotey concurred with Board Member Jaffe on the relocation of the north dumpster. He stated a concern with traffic flow during peak hours for the site and encouraged the developer to meet with all of the neighbors.

Mr. Rolf Kilian, 3100 W. Higgins Road, Hoffman Estates, stated that the site has an acceptable level of service for traffic. He stated the access is located opposite Hurlburt Court and that the exit from the drive-thru is a right turn only.

Board Members Cotey and Oakley stated their concerns regarding the back up of traffic during the peak morning hours.

Board Member Cotey inquired as to whether the drive-thru exit could be further narrowed. Mr. Kilian stated that could be provided.

Board Member Cotey stated that he was concerned that the building looks a little flat on the east elevation. He stated the petitioner should re-think signage for the site and provide more architectural interest reflecting the history of the downtown. He also stated that the petitioner may consider some conservation issues in regard to the parking lot with the use bio-swales and possible longer-rooted grasses.

Board Member Oakley stated that the plan should be a Planned Development and that the variations as proposed are self-created.

Vice Chairman Hezner agreed that the variations are self-created and that this is not a unique site and there is always another remedy. He further stated his position that the development should be a Planned Development and that the petitioner should notice as such for the next meeting.

In the matters of ZBA 09-07 and ZBA 09-08, Board Member Robinson moved, seconded by Board Member Howard, to continue these items to the May 18, 2009, Zoning Board of Appeals meeting.

Motion carried 6 - 0.

Minutes of the April 27, 2009, Zoning Board of Appeals Meeting
Page 5 of 5

COMMUNICATIONS AND DISCUSSION:

Board Member Cotey moved, seconded by Board Member Robinson, to adjourn the Zoning Board of Appeals meeting.

Motion carried 6 - 0.

Meeting adjourned at 8:48 p.m.