



Zoning Board of Adjustment Meeting
Monday, March 2, 2015, 7:00 PM
City Hall Council Chambers

MINUTES
Approved 4/6/2015

I. Roll Call

Present: David Nichols, Todd Russel, Carolyn Towle, Jim Hanson, Richard Collins, Amy Richardson

Absent: Michael Hurd

City Staff: Michael McCrory, Interim City Planner; Jane Taylor, City Solicitor

Mr. Hanson asked Ms. Towle to sit in for Mr. Hurd.

II. Review Public Meeting Minutes from 1/5/2015

Motion: To accept the minutes of the January 5th meeting.

Made by: Mr. Russel **Second:** Mr. Nichols **Vote:** Unanimous in favor

Motion: To take a short recess for consultation with legal counsel.

Made by: Mr. Russel **Second:** Ms. Towle **Vote:** Unanimous in favor

III. Old Business

- o **(ZO2014-00008) Diana Gauthier, 198 Bible Hill Road** – seeks a variance from Section 22-189 of the City Zoning Ordinance for construction of an addition to the house at **198 Bible Hill Road**. Tax Map: 166, Lot: 41. Zoning District: RR2. (cont. from Jan. 5, 2015)

Mr. Collins asked to step down due to a past relationship with the applicant. Mr. Hanson asked that Ms. Richardson to stand in for Mr. Collins.

Mr. McCrory read the list of abutters. There were no abutters present.

Mr. McCrory gave the following brief summary of events to date:

- The applicant seeks to construct a porch on the easterly side of house – adjacent to Pappas Road.
- A survey was requested by the board to determine if the deck passes into the public right of way.
- The Board conducted a site visit to observe the decking and site conditions.
- The survey has been completed.
- There is no known record of the Pappas Road right of way.

There were numerous questions regarding the making of the survey which could not be answered as the surveyor was not present.

Motion: To accept pictures that the applicant brought showing where the snow accumulation from the road relative to the house and deck.

Made by: Mr. Russel **Second:** Ms. Towle **Vote:** Unanimous in favor

The board looked at the pictures. Again there were concerns expressed regarding the new survey and how it compares to an earlier one. Despite the differences, the newest plan does show that the house and most of the garage are inside the setbacks, but outside of the right of way. The board was concerned about snow storage and the possibility of a car hitting the house in the event of an accident on Pappas Road.

The board asked the applicant to explain the hardship and why a variance is needed. Ms. Gauthier said that the family room had been built with the plan of having a deck attached to it and that the door from the room is two feet off the ground.

The board took issue with the fact that both the proposed deck and a previously permitted deck come closer to the road than the house. She was asked if she could reduce the size of the proposed deck by two feet.

Attorney Taylor reminded the board that entrance steps are not regulated under zoning. She also advised the board to continue the hearing if they ask the applicant to change the proposal.

Keith Stevens, the applicant's brother, claimed that the road had been moved onto the applicant's property. He offered to reduce the deck by one foot on the Pappas Road side.

No one else wished to address the board. Mr. Hanson closed the public hearing. However, after the board discussed the matter with Attorney Taylor, they decided to re-open the hearing.

Motion: To re-open the public hearing.

Made by: Mr. Hanson **Second:** Mr. Russel **Vote:** Unanimous in favor

The board asked Ms. Gauthier if she was willing to amend her plan to reduce the encroachment on the right of way. She agreed.

Mr. Hanson closed the hearing.

Motion: To continue the application to the next meeting to let the applicant amend the variance request to reduce the size of the deck.

Made by: Mr. Russel **Second:** Mr. Nichols **Vote:** Unanimous in favor

Mr. Collins rejoined the board.

Motion: To take a short recess.

Made by: Ms. Towle **Second:** Mr. Russel **Vote:** Unanimous in favor

- o **(ZO 2014-00014) Lingling Horton, 264 Chestnut Street** – application for a special exception under Sect. 22-207 of the City Zoning Ordinance to allow the addition of a Home Occupation to the duplex at **264 Chestnut Street**. Tax Map: 145; Lot: 15-2. Zoning District: R-1 (Cont. from Jan. 5, 2015)

Mr. Russel asked to be recused on the grounds that he has done work for Ms. Horton and he has not sat on this case since it started.

Mr. Hanson asked Ms. Richardson to sit in Mr. Russel's place.

Mr. McCrory read the abutters roll. No abutters were present.

Mr. McCrory stated that the last time this applicant had come before the board for a special exception, it had been denied for various reasons, including an unpermitted pellet stove, septic disposal questions, and a gravel parking area. The pellet stove has since been permitted by the city. A qualified soils scientist has determined that if one of the four bedrooms in the duplex is removed, the existing septic system could accommodate the home occupation. Mr. McCrory stated that the driveway and parking lot have been paved. The parking area is now better defined and is large enough to accommodate the parking needs. Mr. McCrory asked that the home occupation be monitored to ensure that the “20% rule” is adhered to.

Mr. McCrory stated that the duplex itself was allowed with a variance. The variance caps the number of bedrooms at four.

The board discussed the application with the applicant. She testified:

- that the kitchen appliances had been removed,
- that the door to one of the bedrooms had been removed,
- that the fire chief had inspected her pellet stove,
- that there are normally four cars parked in the parking area, and
- only one customer would come to her house at a time.

Mr. Hanson opened the public hearing to allow for public comment. When there was none, he closed the public hearing.

Motion: To approve application ZO 2015-00014 for a special exception at 264 Chestnut Street (map/lot 145/15-2) with the following conditions:

1. The applicant shall obtain all necessary permits and approvals as determined by the Local, State and Federal governments.
2. Ongoing operations of this home occupation shall abide by the “Home Occupation” standards as established in Section 22-1 in the City Code.
3. The applicant shall maintain no more than three bedrooms on the property while the home occupation is in operation.
4. This special exception approval is related only to the activity requested by the applicant and will not run with the land.
5. The applicant shall permit periodic site visits by the city to ensure residential and home occupation uses comply with city codes and this approval.

Made by: Ms. Towle **Second:** Mr. Nichols

The board turned to addressing the criteria for a special exception application.

1. The site has been enhanced to reflect the added traffic.
2. The interior of the home where the business is going to be (conducted) has been altered to make it an appropriate use.
3. As long as the safeguards are protected, and this doesn’t go beyond what has been applied for, the property values won’t be harmed.
4. The septic system hazard has been eliminated.
5. The wood stove has been approved.

6. The business is one that is conducted strictly inside the building.
7. There are currently four cars that access the property. The board is not aware of any traffic complaints there now. Adding two more cars should not cause a traffic impact.
8. There have been no complaints or participation by abutters.
9. This property is located on a state-maintained highway.
10. The city provides water to the property.
11. The septic system is private.
12. Alterations that have been made make the proposal fit the purpose and intent of the zoning ordinance.

Vote: Unanimous in favor

IV. New Business

- o **(ZO 2015–00001) Runnings, 901 N. Highway 59, Marshall, MN** – seeks a variance to erect 7 signs on the building at 403 Washington Street. Tax Map: 146; Lot: 21. Zoning District: B2

Mr. Russel rejoined the board. Ms. Richardson returned to the alternate position.

Mr. McCrory explained that there are two types of signs that are allowed in the B2 zone – free-standing and building-mounted. The free-standing sign proposal for this property complies with the requirements. The proposal for building-mounted signs exceeds the allowed limit of 300 SF by 195 SF. The excess square footage is not contained within a single sign, but is collective across several words on the building.

Mr. McCrory read the abutters roll. No abutters were present.

Tim Sullivan of Barlo Signs presented the application to the Board. *Runnings* will occupy the former *Lowe's* store, which is just under 125,000 SF. The building is set 450 feet back from Washington Street with a large parking lot in front of the building. They are proposing two illuminated signs over the building entrances each with a 10-ft. logo and 3ft 6in letters. These two signs consume all of the allowed square footage. The building has 600 feet of frontage. They would like to identify the store's departments with 2-ft non-illuminated black letters on the front of the building and hence the variance request. The company believes they need this advertising because *Runnings* is a new business in this area. The building is in a highly commercialized area.

Mr. Sullivan asked for consideration of an additional 18 SF *Steil* chain saw sign to be placed on the building. The board consulted with Mr. McCrory and decided against considering the request with this application.

The board discussed details with the applicant and then opened the public hearing. There was no comment from the public, so Mr. Hanson closed the hearing.

Motion: To grant a variance to JR & R III LLC *Runnings* from section 22-604(5) to allow signage to exceed the maximum allowable exterior affixed signage area by 195 SF for a total of 495 SF with these conditions:

1. Total exterior affixed sign area shall not exceed 495 square feet and shall be installed as illustrated in the February 11, 2015 variance application.

2. The applicant shall obtain all necessary permits and approvals as determined by the Local, State and Federal governments.
3. This variance shall be recorded in the chain of title.

Made by: Mr. Russel **Second:** Ms. Towle

The board discussed the variance criteria. They defined the hardship as the size of the building and the distance from the road. There are special conditions of this business (it is new in the area). Granting the variance would be consistent with the spirit of the ordinance. Substantial justice would be done by granting the variance. There is a public benefit in the 90 jobs this business will create. The values of the other properties in the area will be enhanced when the store opens. The request is reasonable.

Vote: Unanimous in favor.

- o **(ZO 2015-00002) MSJJ, 356 River Road** – seeks a variance from Section 22-354.1 of the City Zoning Ordinance to establish a transportation facility at **442 River Road**. Tax Map: 187; Lot: 2-1. Zoning District: I-3

Mr. McCrory explained that the I3 zone was created for low impact, industrial-park type uses. The trucking facility is not too far removed from the I-3 uses and this location is in the context of heavier industrial uses (I-2 zone directly across the street). Mr. McCrory said it was not an unreasonable request. Mr. Russel pointed out that there is another truck facility already in the immediate neighborhood. The land is part of the Syd Clarke Industrial Park and is owned by the Claremont Development Authority (CDA). The CDA has authorized the variance application. There is an older homestead on the property.

Attorney Taylor said the CDA has covenants on the lots within the Park. She recommended the addition of a condition, “The applicant shall meet all of the Syd Clarke Park development requirements and comply with all covenants not expressly waived by the CDA.”

When asked if the house would be removed from the property, Mr. McCrory stated that a specific development proposal had not been received and that this proceeding is only for a variance to allow the use. He further said that the future of the house would be a site plan question.

Mr. McCrory read the abutters roll. HEG LLC was present in the audience.

Vic St. Pierre presented the project for the applicant (Jewell Transport) and answered questions from the board. He said this location is approximately 800 feet from where they are currently located. He said they want to move because Canam wants to buy the applicant’s lot and expand. Jewell Transport does all of the trucking for Canam and wants to stay close to their facility. This lot best meets their needs of all the lots in the Park. The trucks will be the same as the current operation. They are currently talking to IDA (CDA) about moving the building, the old Shoemaker house, completely off of the site. The site would be used to repair and store the trucks. They plan to build a building that is similar to others in the area. Access is planned onto both River Road and Grissom Lane. He stressed the importance of having the trucking facility in this area. Jewell Transport currently has 55 trucks. At any one time there are only 10 trucks on site. The building will be at least 160 feet off the road. Natural buffers will be provided.

A representative of HEG LLC (Edgar name?) asked if the trucks on the lot would be empty or loaded. Mr. St. Pierre said occasionally a loaded log truck may park over night on the lot. He said he was in favor of the proposal. The representative had no more questions.

Mr. Hanson closed the public hearing.

Motion: To grant a variance to MSJJ from section 22-354.1 to permit a trucking terminal with the conditions:

1. The applicant shall obtain all necessary permits and approvals as determined by the Local, State and Federal governments.
2. This variance shall be recorded in the chain of title.
3. The applicant shall meet all of the Syd Clarke Park development requirements and comply with all covenants not expressly waived by the CDA.

Made by: Mr. Russel **Second:** Ms. Towle

The board addressed the variance criteria. Granting the variance is in the public interest and within the spirit of the ordinance. The covenants in the park will help maintain the value of the surrounding properties. The traffic volume will be the same. The abutter across the street has no objections.

Vote: Unanimous in favor

Motion: To take a 5-minute recess.

Made by: Mr. Russel **Second:** Mr. Hanson **Vote:** Unanimous in favor

- o **(ZO 2015-00003) Thomas LaCasse, 88 West Pleasant Street** – seeks a variance from Section 22-209 of the City Zoning Ordinance to construct a 20' x 12' deck at **88 West Pleasant Street**. Tax Map: 143; Lot: 38. Zoning District: R1

Mr. McCrory stated:

- the lot is triangular in shape,
- the lot is located at Drapers Corner,
- the house encroaches on the right of way,
- the proposed deck will face Drapers Corner on the west side of the house,
- there is a 25-ft. setback in this zone.

He asked the board to consider:

- Is it an unusual circumstance?
- Does it inhibit vehicular and pedestrian safety at the intersection?
- Is it a reasonable location for the deck given the configuration of the lot and the location of the house?

Mr. McCrory read the abutters roll. No abutters were present.

Mr. Russel asked if there was any documentation regarding any agreements Mr. LaCasse may have had with the city with regard to his property. Attorney Taylor said she had documentation, but was uncertain as to its relevance to the application. She gave a brief history of the Drapers Corner project and how many properties in the area were affected, including Mr. LaCasse's. Mr. Russel said he wanted to know specifically where the original property lines were and where they are now. The board had no further questions for Mr. McCrory or Attorney Taylor.

Mr. LaCasse presented his application to the Board. He said he cannot get insurance on his house until he has something in front of his front door (where he wants to put the deck). He said his front door is two feet off the ground with no stairs, so it cannot be used. He claimed to have had an agreement with the City where all he would need (for the deck) is a building permit. He said the city took 25 feet off of the front and 10 feet from one side of his property. An old map showed that the Maple Street right of way went through his foundation; so he said the City gave him one foot away from the sidewalk. He said there used to be a school there with large double doors in the front and granite steps that came out 4-5 feet into the road.

Mr. LaCasse said he has two points of egress from this house. He said his front steps have been gone since approximately 1985-86.

Mr. LaCasses said there are many other houses along Maple Street that don't have 25 feet between their front porches and the sidewalk.

Mr. Hanson opened then closed the public hearing.

Mr. Russel again asked to see how the property lines had changed as a result of the Drapers Corners project. Attorney Taylor gave the board copies of a letter of agreement that Mr. LaCasse had signed in 2013 with the City and a map showing the land that had been taken from the front of Mr. LaCasse's property.

Motion: To accept into the record the documentation provided by Attorney Taylor.

Made by: Mr. Russel **Second:** Mr. Nichols **Vote:** None taken

The board spent some time reviewing the map.

It was pointed out that the stairs from the deck are not included in the proposal. Mr. McCrory stated that the steps are ancillary to the deck.

The board discussed the extent of the change (from what was there before), the effect of the deck on site distances, and the size of the deck (vs the size of a simple set of stairs).

Motion: To grant a variance from section 22-209 to permit construction of a deck within 25 feet of the adjacent rights-of-way to Tom LaCasse at 88 West Pleasant Street with the conditions:

1. The propose deck shall be constructed in substantial compliance with the variance application dated February 13, 2015.
2. The applicant shall obtain all necessary permits and approvals as determined by the Local, State and Federal governments.
3. This variance shall be recorded in the chain of title.

Made by: Mr. Russel **Second:** Mr. Hanson

Findings of Fact

- The variance will provide egress from the house in a way that fits the size of the house and the landscaping
- The Board is trying to be consistent with giving people egress from their homes
- There will be no harm to public safety
- Substantial justice will be done by granting the variance

- The hardship arises from all of the changes that have taken place on the property.

Vote: Nichols, Russel, Hanson, Collins in favor; Towle opposed. Motion carries.

V. Correspondence

Mr. McCrory encouraged board members to attend the annual OEP conference.

VI. Other

VII. Adjournment

Motion: To adjourn the meeting

Made by: Mr. Russel

Second: Mr. Nichols

Vote: Unanimous in favor

The meeting adjourned at 10:01 PM.

Respectfully submitted,

deForest Bearse

Resource Coordinator