

City of Dearborn
Zoning Board of Appeals
Thursday, October 24, 2024
Minutes

Called to Order: 5:32 p.m.

Commissioners Present: Glen Green (Chair), Hassane Fadlallah (Secretary), Tim Muflihi, Mona Hammoud, Afan Bapacker.

Technical Advisors: David Breneau, Zoning Administrator; Massara Zwayen, Assistant Planning Manager; Bradley Mendelsohn, City Attorney.

Approval of Minutes. Motion by Commissioner Bapacker, supported by Commissioner Fadlallah that the minutes of the previous regular meeting of Thursday, October 3, 2024 are approved as recorded. Motion carried unanimously.

Appeal #24-114

From Ahmed Gelan, on behalf of Smart Town North LLC, requesting a parking variance to accommodate a multiple-family residential development. The property size being irregular, in a General Business (BC) zoning district at:

15625- 15825 Lundy Parkway

Breneau summarized his Staff report dated October 24, 2024. Factors to consider on the variance request: Proposed for the vacant property is a complex of 53 townhouses and 58 apartment units with a mix of 1 and 2+ bedroom units. The required parking is 239 spaces. The applicant is providing 196 spaces. The plans provide adequate driveways which can accommodate up to 2 additional cars for each unit. Staff believes the required parking for multiple-family developments may be too high. The site is relatively isolated from other uses. Based on the above-mentioned facts and analysis the Planning and Zoning Division recommends approval of this request.

Breneau added that the Planning Commission did approve the Special Land Use permit for the project.

Bapacker asked if the driveways could accommodate two more parking spaces, but that's no counted towards the required parking.

Breneau said yes, but what is counted towards meeting the requirement are the garages and dedicated parking spaces, but not the driveways.

Applicant clarified that the 173 spaces within the driveways are not counted.

Bapacker so it is 173 in addition to the 196 that are provided.

Hammoud asked if the driveways accommodate two cars even for the one-bedroom apartments?

Applicant said the one-bedroom apartments have a one-car garage with a one-car driveway and the two-car garages have a two car-driveway.

Green said there is also guest parking, which is an additional 40 spaces for guests, so

likely that guests may parking in those spaces allotted for the garages?

Applicant said yes, the resident will likely park in the driveways, so the guests have dedicated spaces.

Breneau clarified the guest parking is part of the required parking.

Green clarified there is a variance request for a 43-space deficiency, despite there being 40 guest parking guests will likely park in the driveway like they do at his house.

Bapacker asked why the driveway spaces are not counted.

Breneau said Staff does not know; with older single-family houses they do count as required parking; it is a difference Staff may need to review.

Applicant's architect said the city does not allow us to count both the driveway and the garage spaces, we have to count one or the other, because the argument is one will block the other, having to move their vehicle for the other to leave; otherwise we have plenty of parking, we just cannot count the driveways.

Green said there is a discrepancy in the code between new housing and older single-family.

Applicant's architect said if their complex was treated as an older single-family house we would not be at this hearing.

Applicant said there is a total of 366 parking spaces.

Bapacker said the Ordinance does not want to inconvenience the homeowner, this discrepancy does not make sense, the driveway is available space.

Green said the code requires 239 spaces, the way the parking spaces are calculated they are supplying 196, we have an 173 additional driveway spaces, and 40 guest spaces that are part of the 196, and the variance is for a deficiency of 43 spaces; he does not see an issue with their parking situation.

Public comment: None.

External correspondence: None.

RESOLUTION. Motion by Commissioner Fadlallah, supported by Commissioner Muflihi, for the reasons and subject to the facts, representations and stipulations stated on the record during the public hearing, to APPROVE the variances detailed below:

4.01 (C 9) Off-street parking. Zoning requirement: 239 spaces. Plan to provide: 196 spaces is APPROVED (DZO 32.05, F.1. B, D, M).

This motion is conditioned on the petitioner's continuous compliance with all applicable ordinances, codes, laws and statutes; and, the petitioner must perform all work under plans, permits and final inspections approved by the City of Dearborn.

Motion carried unanimously.

Appeal #24-113

From John and Susan Carone, requesting the following variances to accommodate a proposed smoking lounge. The property size being 50' x 150', in a Community Business (BB) zoning district at:

3419 S Telegraph

Breneau summarized his Staff report dated October 24, 2024. Factors to consider on the variance request: The previous use of the building was a salon. The number of parking spaces was conforming for the use. The proposed use and plan deviate from the development standards for smoking lounges with an inadequate distance from a school and lacking direct access from Telegraph as a major thoroughfare. The proposed vehicular access is only from the alley behind the property. The proposed parking is inadequate for the proposed use, without on-street parking being available to alleviate the inadequacy. All variances must be granted for the property to be used as a smoking lounge. Based on the above-mentioned facts and analysis the Planning and Zoning Division recommends denial of this request.

Breneau added that the Planning Commission did approve the Special Land Use permit for the use.

Zwayen said the Zoning Code has site development standards specifically for smoking lounges, in this case the plan deviates from the requirements related to the distance from the school and the site access, and their other variance request is for the parking standards.

Green asked did the salon get rid of the curb cut?

Breneau said he does not know; he stated the access requirement is specific to certain uses, such as smoking lounges; it is not required for retail or personal services.

Green asked if the ordinance distinguishes between different types of smoking lounges or does it take into account the number of seats or capacity.

Breneau said no.

Green asked if this is an ordinance and not a state law.

Breneau said he does not know if the local code is somehow tied to the state law.

Mendelsohn said for the distance requirement that is just local.

Fadlallah said this place has no seating, correct?

Breneau said the seating is the center part of the floor plan, it is lounge style.

Applicant said it has ten seats.

Green said this is for cigars and no hookah?

Applicant said just cigars, no other types of tobacco, no alcohol, and most of the traffic is retail.

Fadlallah asked about the hours.

Applicant said 11-9 Monday thru Friday, 11-7 Saturday, closed Sunday, and customers must be 21 by state law.

Green asked how is the space calculated for the parking, based on square footage?

Breneau said it is gross square feet as a lounge.

Applicant said they calculated it lounge versus retail, and the previous salon had 7 angled spaces along the north side of the building, but the City said they are nonconforming so we had to remove them.

Zwayen said they were angled spaces so the drive aisle has to be one-way, and with the history of the property, the way it got split perhaps the staff at that time did not pay attention to the access requirement, but in our site plan review we could not count them because they were not functional.

Green said so any business that goes in there will have the same fault.

Breneau said yes, but the requirement is specific to lounges and restaurants, but other businesses simply do not have this requirement; the spaces were removed in part because they are angled so that people would egress onto Telegraph, but there is no curb cut.

Fadlallah asked the 7 spaces that were removed, no one can use them?

Zwayen said no due to the access, it is one-way with no curb cut; as for the parking requirement, the retail is treated differently than a lounge, with the lounge at 1 space per 90 sq ft of gfa versus retail at 1 space per 200, so the lounge has a higher parking requirement.

Green asked what percentage of the building is going to be used as retail versus lounge? Did you only use the lounge or did you use the retail?

Zwayen said it is all considered a smoking lounge.

Applicant said it is 200 sq ft lounge out of 1,200 sq ft gross; it is 1,151 sq ft based on City records.

Green said so if it is calculated based on 1,000 sq ft retail and 200 sq ft of lounge.

Zwayen said the primary use of the space is a smoking lounge and the retail is accessory.

Green said while you as Staff cannot treat it as retail it is something we as the Board can do.

Bapacker asked how many chairs were in the salon?

Breneau said we calculate salons as gross floor area and we go by what is the dominant use of the floor area, for example with a restaurant you have the seating area and you have a work area in the back; when we go by gross floor area it gives us flexibility to allow people to change their layouts in the future.

Hammoud asked how many chairs are on the plan?

Applicant said 12.

Muflihi said it looks like a retail store and he has no issue with the parking, the alley access is fine, with the distance from the school you have to be 21 to get in, and there is a gas station that is closer to the school.

Applicant said in the past the salon used the driveway to the neighboring collision shop,

MDOT said they will not allow the lounge its own curb cut because it would be too close the collision shop curb cut, they want 100ft between curb cuts, the City said you cannot use the neighbor's curb cut, the access has to be on your parcel, it always has been the alley access.

Public comments:

Nancy Siwik said she is not a neighbor and was a member of the Planning Commission for 20 years; it is good they have a tenant, the area is dying, the curb cut has been an issue because DTE would not allow it, they have a box, and the seven spaces that are being removed, the salon employees parked there because they were there all day so maneuvering wasn't an issue, parking has never been an issue there because the bank never has a full parking lot, businesses have not been able to stay there for a number of years, and with the school nearby, the kids are looking for cigarettes and not cigars so they will go to the nearby gas station, and for all of the businesses people enter from the alley to get into the businesses along here.

Mendelsohn clarified that a cigar bar is defined as a smoking lounge in the ordinance, as for the parking variance, an easement would be required to use the collision shop parking because they are under different ownership.

Green noted the outside correspondences; he said the traffic in the alley, ingress and egress, noise disturbances, he is not concerned about these given the nature of the business; this business is bringing vitality back to the area.

Green said as for the Telegraph curb cut, there is an issue that will be there forever and no business will change that; as for the parking, the area on the floor plan the Board considers retail will offset the area used for the lounge, and the Board has done this for other businesses in the area where people can walk to the lounge from a side street or another parking lot, even if there is no parking agreement, the Board has done more substantial variances; the distance to the school, the children are not going to be buying premium cigars or smoke in the lounge, they will more likely go to the gas station, or they will play in the vacant fields that will be left or the vacant buildings that will be left if we don't get the buildings occupied.

External correspondence: Three emails from neighbors oppose the project and one email from a resident supports it.

RESOLUTION. Motion by Commissioner Fadlallah, supported by Commissioner Hammoud, for the reasons and subject to the facts, representations and stipulations stated on the record during the public hearing, to APPROVE the variances detailed below:

4.01 (C 9) Off-street parking. Zoning requirement: 13 spaces. Plan to provide: 10 spaces is APPROVED (DZO 32.05, F.1. B, D, G).

7.02 (V 2) Vehicular ingress and egress. Zoning requirement: Thoroughfare with business-zoned frontage. Plan to provide: Alley is APPROVED (DZO 32.05, F.1. B, D, K).

7.02 (V 6 b) Distance between smoking lounge and school. Zoning requirement: 700ft. Plan to provide: 400ft is APPROVED (DZO 32.05, F.1. B, M).

This motion is conditioned on the petitioner's continuous compliance with all applicable ordinances, codes, laws and statutes; and, the petitioner must perform all work under plans, permits and final inspections approved by the City of Dearborn.

Motion carried unanimously.

Meeting Adjourned: 6:15 p.m.