

**ZONING BOARD OF APPEALS
REGULAR MEETING
Wednesday, May 18, 2016, 4:03 P.M.
Council Chambers, City Hall
109 East Olive Street, Bloomington, Illinois**

Members present: Chairman Briggs, Mr. Ireland, Mr. Bullington, Mr. Brown, Ms. Meek, Mr. Simeone

Members absent: Mr. Kearney

Also present: Mr. Tom Dabareiner, Community Development Director
Mr. George Boyle, Assistant Corporation Counsel
Ms. Katie Simpson, City Planner

Mr. Dabareiner opened the meeting at 4:03 p.m. and called the roll. With five members in attendance, a quorum was present. Ms. Meek arrived at 4:10 p.m.

PUBLIC COMMENT: None

The Board reviewed the minutes from March 16, 2016 and the minutes were **approved** unanimously.

Chairman Briggs explained the meeting procedures and introduced the staff present. Mr. Dabareiner stated all items were properly published.

REGULAR AGENDA:

Z-12-16 Consideration, review and approval of the petition submitted by Mark Bowers for a Variance to allow for 50 parking spaces in lieu of the required 160 spaces/20 per court (44.7-2) for the property located at 4101 Wicker Road in the B-1, Highway Business District.

Don Adams, Farnsworth Group, was sworn in. He indicated he was representing the applicant on this matter. Mr. Adams distributed new drawings for the proposed indoor tennis facility, containing six indoor courts. He noted that the Bloomington zoning ordinance requires more parking than is needed for his facility, requiring 120 spaces when Mr. Adams believes 50 spaces should suffice. There is room to expand the number of parking spaces to 83 if needed. Mr. Adams noted that he examined parking demand at another tennis facility with several more courts, but it includes only 58 spaces. He is requesting a variance for the required parking.

Chairman Briggs asked about the type of structure; Mr. Adams described the inflatable structure and noted nearby communities. Chairman Briggs asked whether the airport has been contacted yet given the proximity of the structure to the airport; Mr. Adams indicated that the design will include the required lights at each of the four corners and that the FAA has no problem with the structure. Chairman Briggs asked if the building could be converted to another sport, thereby requiring more parking; Mr. Adams indicated that while this is possible, the amount of playing

space would be reduced for basketball courts. Volleyball courts could present an issue, but that is not an intended use.

Ms. Simpson provided the staff report, noting the 50 spaces being provided instead of 120 spaces. She provided the location and zoning for the property. She indicated staff believes the 50 spaces should be sufficient and that staff believes the standards for granting a variance were met. Chairman Briggs asked if staff was concerned about the use's conversion to a higher intensity sports use such as volleyball. Mr. Dabareiner indicated the City can look to code enforcement if parking demand gets out of hand, and that staff believes any successful business would like to provide convenient parking for their customers so would more likely be proactive should a change in sport occur.

Mr. Bullington asked whether parking is allowed on Wicker Road; Ms. Simpson responded that she did not believe on street parking was allowed. Mr. Ireland corrected a scrivener's error in the written report which carried the wrong case number.

Chairman Briggs requested a roll call vote on Case Z-12-16, which was **approved** by a 6-0 vote as follows: Mr. Ireland—aye; Mr. Bullington—aye; Mr. Simeone—aye; Mr. Brown—aye; Ms. Meek—aye; Chairman Briggs—aye.

Z-13-16 Consideration, review and approval of the petition submitted by Prairie Signs Inc. for a Variance to allow for two signs greater than 300 square feet for property located at 1500 E Empire in the C-3, Community/Regional Shopping District.

Z-14-16 Consideration, review and approval of the petition submitted by Prairie Signs Inc for a Variance to allow two signs greater than 30 feet tall for the property located at 1500 E Empire in the C-3, Community/Regional Shopping District.

Chairman Briggs suggested combining Case Z-13-16 with Z-14-16 for presentation purposes because, while two different variances, the cases were about the same proposed signage. There being no objection, the discussion on the two cases were combined.

Diana Bubevik, Prairie Signs, 1215 Warner, in Normal, was sworn in and presented her request. Ms. Bubevik noted that the request concerns two existing signs serving the Colonial Plaza Shopping Center. Both signs are more than 45 feet tall and over 300 square feet in area, she said, and indicated variances for height and area had previously been obtained. She added that the signs are falling apart and need to be rebuilt, so need a new pair of variances covering height and area.

Terry Dodd, 305 Robin Hood, was sworn in. He asked if the signs would be digital signs. Ms. Bubevik stated the signs are not digital or changeable, but are lit internally with LED lighting.

Ms. Simpson presented the staff report, noting that staff is supporting the requests for both variances. She described the location and surrounding uses. She described the physical hardships met, related to distance from the primary roadways. She noted the proposed signs were similar in height and area. She repeated that the new variances are required because the existing signs to be taken down and rebuilt.

Chairman Briggs requested a roll call vote on Case Z-13-16 and Z-14-16, which was **approved** by a 6-0 vote as follows: Mr. Ireland—aye; Mr. Bullington—aye; Mr. Simeone—aye; Mr. Brown—aye; Ms. Meek—aye; Chairman Briggs—aye.

Z-15-16 Consideration, review and approval of the petition submitted by James A Shirk for a Variance to allow for a transitional front yard setback of 16 feet in lieu of the required 25 feet for the property located at 921 E Washington Street in the B-1, Highway Business District.

Mr. Bullington and Mr. Simeone left the room, having indicated a potential conflict of interest given their ownership or other interests in the subject property.

Kyle Glandon, architect for the project and representing the petitioner, was sworn in. Mr. Glandon noted that this is not the 2013 project, which was mixed use; instead a multi-use building which includes Green Top Grocery will be built. He added the building location will be pulled closer to Washington Street with parking in the rear, making it more easily accessible to pedestrians and bicyclists. Mr. Glandon summarized his request as the result of an effort to achieve walkability, open space requirements and other design interests a variance is being requested for the transitional front yard along the east side of the structure.

Ms. Simpson indicated staff supports the variance request to reduce the transitional yard because of the unique physical characteristics of the site and relationship to the neighboring uses, which she described. The pedestrian friendly nature of the development is supported by the Comprehensive Plan, she added. Ms. Simpson reviewed the location of the bike trail and the design requirements for the structure, which forces the building to be offset compared with similar properties. She stated that some transitional yard would still be provided and she believed it would be satisfactory.

Chairman Briggs requested a roll call vote on Case Z-15-16, which was **approved** by a 4-0 vote as follows: Mr. Ireland—aye; Mr. Brown—aye; Ms. Meek—aye; Chairman Briggs—aye. Mr. Simeone and Mr. Bullington were invited back to the council chambers after the vote.

Z-16-16 Consideration, review and approval of the petition submitted by Sandra and Donald McAuley for a Variance to allow for a side yard setback less than the required 6 feet for property located at 1508 Tralee Lane in the R-1C, Single-Family Residential District.

Sandra McAuley, 1508 Tralee Lane, was sworn in. Ms. McAuley indicated she wanted to put in a side yard parking area for a business vehicle that must park there. Mr. Bullington asked the petitioner what the benefit was for the public; Ms. McAuley stated that cars would not be double-parked which could obstruct views of the sidewalk. She added that off street parking is difficult because of the location of her property in relation to the intersection and a fire hydrant, so she does not enjoy the same parking privileges as neighboring properties have.

Ms. Meek clarified where the pad would be located; Ms. McAuley responded that it goes to the side. Mr. Ireland clarified if there was parking in the driveway for two spots; Ms. McAuley confirmed there was.

Ms. Simpson presented the staff report and recommend in favor of the variance. She showed an aerial photo of the location and one of the neighborhood, which showed the fire hydrant location and the difficulty caused by the adjacent T-intersection, which serve as hardships. She stated there were no easements or utilities along the affected side yard. She added that many in the neighborhood have three car garages. A three-foot setback would still be provided, she added.

Chairman Briggs requested a roll call vote on Case Z-16-16, which was **approved** by a 5-1 vote as follows: Mr. Ireland—no; Mr. Bullington—aye; Mr. Simeone—aye; Mr. Brown—aye; Ms. Meek—aye; Chairman Briggs—aye.

SP-03-16 Consideration, review and approval of the petition submitted by Shawn Pawley for a Special Use for an acupuncture clinic for property located at 1617 E Oakland in the R-1C, High Density Single-Family Residential District.

Chairman Briggs introduced the case, noting that because it is a special use request the ZBA provides a recommendation to the City Council, rather than a final decision.

Michelle Pawley, 401 Vale Street, was sworn in. Ms. Pawley explained she is a licensed acupuncturist in Illinois and lives near the building which she wishes to turn into an acupuncture clinic. She added they would keep the current residential tenant, but would replace the realtor with her business. She stated there would be sufficient parking, with four spaces.

Mr. Simeone clarified where the clients would park; Ms. Pawley indicated it would be in one of three available spaces in the back of the building, as one of the four total spaces available is assigned to the residential tenant. Mr. Simeone also asked about the ADA improvements proposed; Ms. Pawley stated they must bring the building up to code because they will be making significant changes inside the clinic area.

Dan Gentry, 1619 Oakland, was sworn in. Mr. Gentry indicated he and his family moved next door to the subject property on April 1, 2016. He stated he is not against the proposal, but believes that there is more parking available than the four indicated and noted his concern that if the business grows it will get noisier and busier. He asked the ZBA to limit hours of operation and require a fence to separate the two properties. Ms. Meek clarified if the driveway abutted his property or the school's property on the other side; Mr. Gentry confirmed it was the other side.

Ms. Pawley stated she will be working daytime only, restricted initially to Friday mornings and limited Saturday hours. Ms. Pawley added that she had the space to add employees, but it would likely be one office manager sometime in the future. She stated that retail products would be sold only to her clients, so would not attract outside customers. Mr. Simeone asked if Ms. Pawley would accept a daytime limitation to her operating hours, which she agreed to within an 8:00AM to 8:00PM range.

In response to whether a fence should be constructed, Mr. Dabareiner explained that there is no requirement for a fence because the zoning is residential and not changing.

Ms. Simpson introduced the proposal and the existing zoning of R-1C. She stated that the code allows replacing one nonconforming use with another less-nonconforming use, which is the case in question today. Ms. Simpson stated staff's belief that the acupuncture clinic would be a less

nonconforming use. She described the neighborhood and the parking restrictions along Oakland. She showed an aerial which included the existing parking, along with ground level photos of the building and the parking. Ms. Simpson noted that the parking and the building cannot be expanded because it is nonconforming. She reviewed the special use standards to determine whether it is a lesser nonconforming use and concluded, as proposed, it meets the standards and staff recommends in favor of the proposal. She repeated Mr. Dabareiner's conclusion that a fence is not required and added that the neighbor may want to add a fence.

Mr. Bullington asked whether limitations can be placed on the number of employees; Mr. Boyle concluded there could be, by agreement, a maximum number of employees. Mr. Bullington explained that if too many employees are added, this use becomes more nonconforming rather than less nonconforming. Mr. Ireland reminded the Commission that the tenant may have guests or potentially a second residential tenant in the residential unit; he added that so much real estate is done online these days that the realtor was very low impact.

Mr. Bullington asked if Ms. Pawley would agree to a limit of one acupuncturist and one other employee; Ms. Pawley indicated in the affirmative. Mr. Simeone asked if she agrees with the 8:00AM to 8:00PM limitation, Sunday through Saturday; Ms. Pawley agreed but indicated she would not working on Sundays.

Mr. Simeone motioned to limit operations to 8:00AM to 8:00PM. Mr. Bullington requested a friendly amendment to reduce the limitation to six days from seven days per week, excluding Sunday. A vote was taken on the amendment to the motion which was **approved** by a 4-2 vote as follows: Mr. Simeone—yes; Mr. Bullington—yes; Mr. Ireland—yes; Mr. Brown—no; Ms. Meek—no; Chairman Briggs—yes.

Mr. Simeone moved that a condition be added to any approval that would limit the operations to 8:00AM to 8:00PM, Monday through Saturday, seconded by Mr. Bullington; which was **approved** by a 4-2 vote as follows: Mr. Simeone—yes; Mr. Bullington—yes; Mr. Ireland—yes; Mr. Brown—no; Ms. Meek—no; Chairman Briggs—yes.

Mr. Bullington moved to limit the maximum number of employees to two; seconded by Mr. Simeone. Mr. Brown and Ms. Meek both expressed concerns about how these restrictions may affect her ability to conduct a business. Mr. Bullington stated the restrictions are to assure it remains a less nonconforming use, which is the overriding standard under consideration. Ms. Simpson confirmed the less nonconforming finding was based on two employees. Mr. Ireland indicated his concern was forcing parking on the street. Chairman Briggs called for a vote which was **approved** by a 4-2 vote as follows: Mr. Bullington—yes; Mr. Simeone—yes; Mr. Ireland—yes; Mr. Brown—no; Ms. Meek—no; Chairman Briggs—yes.

Chairman Briggs requested a roll call vote on Case Z-17-16 to include the two conditions approved earlier, which was **approved** by a 6-0 vote as follows: Mr. Ireland—yes; Mr. Bullington—aye; Mr. Simeone—aye; Mr. Brown—aye; Ms. Meek—aye; Chairman Briggs—aye.

OLD BUSINESS

None

NEW BUSINESS:

Chairman Briggs indicated he would be serving on a grand jury which may affect his attendance over the next couple months.

Chairman Briggs asked for a description of the proposal to combine the Planning Commission with the Zoning Board of Appeals into a new Planning and Zoning Commission. Mr. Dabareiner explained how the proposal is part of the One Stop Shop effort in the City to make it easier for a builder, property owner or developer to marshal projects through the approval process. He described several of the components of the One Stop Shop, including the use of project managers, consolidating the application locations, and combining the ZBA and Planning Commission. He noted that the Planning Commission will need to consider and vote on these changes because they are within Chapter 44 of the Municipal Code. Chairman Briggs provided several thoughts in support of keeping the two bodies separate, acknowledging possible benefits to the petitioners, but felt the additional work may be burdensome on a new commission. He did not believe there was much savings to be gained by avoiding the need for petitioning both bodies today because it happens infrequently.

There being no further discussion or business, a vote to adjourn was unanimously approved by voice vote.

ADJOURNMENT: 5:37PM

Respectfully,

Tom Dabareiner AICP