

**MINUTES
BLOOMINGTON ZONING BOARD OF APPEALS
REGULAR MEETING - 3:00 P.M.
WEDNESDAY, OCTOBER 16, 2013
COUNCIL CHAMBERS, CITY HALL
109 EAST OLIVE STREET
BLOOMINGTON, ILLINOIS**

Members present: Mrs. Barbara Meek, Mr. Dick Briggs, Mr. Bill Zimmerman, Ms. Amelia Buragas,
Mr. Mike Ireland

Members absent: Mr. Robert Kearney, Mr. Jim Simeone

Also present: Mr. Mark Woolard, City Planner

Mr. Woolard called the meeting to order at 3:00 p.m. and called the roll. A quorum was present.

The Board reviewed the minutes from August 21, 2013. The Board had no corrections and the minutes were accepted as printed.

Chairman Ireland explained the meeting procedures. Mr. Woolard stated that the cases had been published.

REGULAR AGENDA

Z-15-13 Public Hearing and Review on the petition submitted by Perfect Choice Exteriors to allow construction of a room addition and to allow the following two variances from the Zoning Ordinance

1. To reduce the required 10' separation between the principal structure and the accessory structure to 3 feet

2. To increase the 30 percent maximum allowed square footage of accessory structures in the rear yard

All for the property located at 811 S. Mason Street. Zoned R-1C, Single-Family Residential District.

Chairman Ireland introduced the case and asked for anyone who would like to speak in favor of the petition to come forward. Mr. Mike McCleary was sworn in as a representative of the contractor, Perfect Choice Exteriors, 402 S. Main, Creve Coeur, Illinois. Mr. McCleary explained the existing deck structure will be enclosed with a wood frame to support the roof and screens. The existing deck is currently closer than 10' from the garage. There was a review and discussion based on the property aerial photo. Some of the items shown in the photo are no longer on the property. Much discussion ensued regarding the yard layout, building materials, roof pitch, steps and the current deck flooring with gapped slats. The owner's intent for this project is to have an enclosed area so that the owner can enjoy the warm weather without mosquitos. There are no plans to enclose the structure to make an indoor living space. A member inquired if the owner had explored plans that would comply with a partial screened area. Mr. McCleary stated that they had and those plans wouldn't allow for much of a screened area. Mr. McCleary addressed the materials for the structure, no planned new footings; the garage fire wall dry wall; and the current door and steps. The existing deck wood and footings are not planned to be replaced unless damaged.

Chairman Ireland invited anyone else who was in favor of the petition. Mr. Stanley R. Feezor, owner of 811 S. Mason Street, was sworn in. Mr. Feezor stated the enclosed porch building request is to create a safe and comfortable place to sit in the warm evenings without mosquito problems and possible disease they carry. He explained the roof would protect the porch flooring from the tree's debris. Mr. Feezor also explained the large white structure was a tent over a jacuzzi which is now torn down and removed from the property.

Mr. Jim Simeone arrived at 3:18.

Chairman Ireland asked for anyone who was in opposition of the petition. No one responded.

Mr. Woolard stated the property is a corner lot. Staff considers this is a room addition as evidenced in other cases. This project adds a lot of bulk to the property. The open separation from the garage is to deter fire from spreading. The building on top of the deck structure was begun prior to acquiring a permit and so any financial hardship to remove it would be self-created by the owner. Staff does not support this based on their view that there is not enough evidence to support the finding of fact. Discussion ensued regarding the difference between this deck structure and a totally enclosed living area. There was more discussion regarding fire walls, dry walls and accessory structures.

Mr. McCleary addressed the board concerns over a future room addition which is to say that there is no future permanent indoor room addition.

The vote on the two variances was approved with six (6) voting in favor and zero (0) against with the following votes being cast on roll call:

Mr. Simeone: Present. Mr. Zimmerman:Yes Ms. Buragas:Yes Mr. Briggs:Yes Ms. Meek:Yes Mr. Ireland:Yes

Z-16-13 Public Hearing and Review on the petition submitted by Dillip Patel to allow a new banquet facility and for a variance from the Zoning Ordinance to reduce the required minimum number of parking spaces for the property located at 806 Eldorado Road. Zoned B-1, Highway Business District.

Chairman Ireland introduced the petition and asked for anyone who was in favor of the petition to come forward. Mr. Larry Hundman, 5 Spruce Ct, Bloomington, was sworn in and stated he is a business neighbor to Buddy's Liquor. He explained the real estate business is closed during the proposed banquet hours resulting in available parking spaces strictly for evening hours when he is closed and it will not affect our lot.

The board questioned if there was a special use issued, then we could attach special hours; however this is a variance request so we aren't able to attach conditions. What happens when you or Mr. Patel move from the property and there are all of these legal contracts based on the variance? If there are complaints, then the banquet liquor license would not be renewed which is different than the liquor license that he holds now. The board member asked if the liquor license has a stipulation on hours attached to it. Mr. Hundman stated that there is no stipulation and that the liquor license would not be renewed. Is there a written agreement between Mr. Hundman and Mr. Patel right now? Mr. Hundman stated no however, he was willing to enter into a written agreement. Ms. Buragas asked if Mr. Hundman as a tenant has the ability to contract out the parking. He said he has authority to use the building and the use of the parking on the lot. Mr. Briggs inquired if there is a new business owner who moves into the property and decides to restrict the parking, then how would one address that? Mr. Hundman would argue to put in the agreement that Mr. Patel could use the parking lot as long as he is the building tenant. Mr. Simeone asked how people go from 802 to 806? Mr. Hundman stated that there is a 10-20 foot drive way that connects the two on the East side of the building. Mr. Hundman stated that the agreement with Mr. Patel would state there would not be parking lot usage during business hours as there is not enough space now.

Chairman Ireland asked for anyone else who was in favor of the petition. No one else spoke.

Chairman Ireland asked for anyone who was in opposition of the petition to come forward. Mr. Darren White, 1219 Roland, Normal, was sworn in. Mr. White manages and represented the Kidder Music ownership and stated concerns over health and safety. Kidder Music is located on the East side of 802 Eldorado. Mr. White explained loading and unloading is in their eastern most door which opens to the small alley that is already very tight. There are problems already with all the agents shoe horned in. The alley is very narrow. Concerns were expressed regarding the small parking lot size and adding more vehicles. Because of the local apartments, there are kids and families walking through that area. There were never these kinds of problems when the former carpet store was in the same space. When Mr. Hundman's real estate business moved into the space, the parking

lot was redrawn to include more spaces to accommodate the individual realtors. There is a one way sign that was knocked down and a blind corner present. A board member questioned the legal ability of a lessee sub-contracting the parking spaces especially since there are two businesses leasing the 802 Eldorado property. Discussion ensued regarding the usage of the parking lot. There has been a recent agreement between Kidder Music and Mr. Hundman to designate parking spaces between the businesses based on the business square footage. Kidder Music does park a company vehicle on the premises at all times and is concerned about vandalism of such from the party goers. Lesson customers have been hit when backing out of their space. More vehicles into the congested area have caused 6-7 accidents within the parking area over the last few years. Mr. White states that Kidder Music considers their store front to face Buckeye and has marked spaces for their customers in that area. The hours of operation for Kidder Music are Monday-Friday 9.00 am – 6.00 pm and Saturday 10.00 am – 4.00 pm. Kidder Music conducts private lessons in the evenings beyond the listed retail hours during the week evenings until 8.00 pm. Discussion ensued regarding kids and family coming and going most days except for Sundays. He stated that there are already broken bottles in the alley and worried about adding more party goers. Mr. White explained that Mr. Hundman operates a Penski moving business in the parking area which also adds to the congestion with trucks moving in and out. There were not any parking issues for Kidder Music when the carpet store occupied the current Caldwell Banker area. The owners of Kidder Music are not in favor of adding entanglements in the parking lot.

Chairman Ireland asked for anyone else who was in opposition of the petition. No one else spoke.

Mr. Woolard reported staff doesn't support this parking variance because there is not enough parking now. The background for this particular code derived out of the need for common ownership of adjacent property. How does one police the need for realtors to utilize the parking lot in off hours which could overlap the proposed banquet hours? Concerns over changed tenants also came up in staff discussions. Much discussion occurred regarding the previous parking variance request when the real estate business first moved into the area which was declined due to parking tightness. Mr. Woolard's site observations during the business hours were reported to be extremely congested with realtors parking on Buckeye. There are also dumpsters present. On the South side of 806 Eldorado, there would be a potential blocking of the traffic flow due to the banquet deliveries. Much discussion ensued regarding parking traffic flow and code parking requirements which involve area businesses located on 802, 806 and 808 Eldorado Road. He explained if there aren't enough parking spaces then people may be more likely to park in convenient spots which may not be a permissive space. Mr. Woolard stated that they have 16 spaces and the code would require 45 spaces which results in a variance of 29 spaces.

Mr. Simeone asked about the loading and unloading in the 806 property. How do they get the liquor in the front? The banquet area would be in the back of the property. There is a concern that this is not a viable property for this business. Mr. Woolard mentioned that parking requirements differ between storage and other types of business. Mr. Simeone mentioned that the property was vacant for approximately ten years. Mr. Briggs mentioned that other types of businesses that require fewer parking spaces like offices could be considered for the property. Chairman Ireland asked if the banquet hall has been under construction and if staff was aware. Mr. Woolard is aware of work however, not specifics for this work. Ms. Meek expressed concern over the code that required only 45 parking spaces. Would those be enough to meet the needs of a 50-120 person banquet hall? Chairman Ireland stated previous parking agreements between businesses required changes to the code and asked Mr. Woolard to explain staff response.

Mr. Hundman approached the board to state that previous discussion focused mainly on parking during business hours and restated his encouragement over allowing this business a chance. Mr. Hundman stated that there is no work on the banquet facility at this time other than cleanup work. He confirmed that the alley way is ten to twenty feet wide and not many folks use this. Mr. Briggs questioned if Kidder Music moves and the new tenant wants to have longer hours? Mr. Hundman would have this stated in the agreement that if either tenant moved, that the banquet hall is done. Mr. Briggs stated when a person attends a 6.00 pm banquet that one would want to go early to obtain a good parking space. That would conflict with the business needs. Mr. Hundman mentioned

that most of the banquets will be held on Saturday and Sunday. The agreement can be renegotiated if any tenant changes. He doesn't have a chance for a banquet facility unless there is a parking variance. Mr. Hundman restated that he is not getting anything in return for his services here, he just wants to help.

Chairman Ireland invited more discussion which prompted the board to request a written agreement attached to the record of variances however, the written agreements need to be with the current owners and to include all lessees. Further discussion ensued concerning no agreement in writing to evaluate, special uses and how variances from past experiences occurred between the owners not the tenants and written agreement included with variances with owners.

Mr. Briggs moved to lay-over Z-16-13 petition until both of the tenants and owners have a written legal document to allow the lease for parking through the five year lease. The second was given by Ms. Buragas. Prior to the vote, Mr. Simeone stated more concern over the amount of needed parking spaces versus the available parking spaces even if the above legal document was produced. Chairman Ireland suggested the interested parties approach the owner of 808 Eldorado regarding utilizing their parking area availability during banquet hours. The motion carried unanimously. This variance will be held over for 30 days to obtain said agreement.

Z-13-13 Public Hearing and Review on the petition submitted by Lori and Jim Morris to allow construction of a residential accessory structure and to allow the following three variances from the Zoning Ordinance:

1. To allow a second story for an accessory structure.
2. To increase the 14' maximum allowed height to 26 feet
3. To increase the 1,000 square foot maximum allowed square footage.

All are for property located at 12 Country Club Place. Zoned R-1A, Single-Family Residential District.

Chairman Ireland introduced the petition. Mr. Steve Carter, 32679 Mackinaw River Rd, Colfax, IL 61728, was sworn in and stated he is a private zoning consultant representing the petitioner and construction project manager. Photos were presented to the board. The family has children coming into driving age and they need more covered parking spaces. They propose to inset a 3.5 car garage into an existing berm which will have a second story and realize as a pool house. The north side of the building would be the only sight of two stories. The upper grade would essentially be one story. Questions from the Board asked the difference in feet between upper and lower grade? Mr. Carter stated approximately six feet. He also said that the Morris's value their neighbors greatly and the construction plans divert any watershed away from any adjoining properties in particular the property to the West. The direction of the water will go to the central part of the petitioner's property through the natural grade or drain. Aesthetic measures are being taken to make sure this structure will fit into this neighborhood by matching the brick to adjoining property home as well as the neighbor home. The non-accessible garage type structure in the very rear of the lot will be removed.

Chairman Ireland asked for anyone else who was in favor of the petition. Lori Morris, 12 Country Club, Bloomington, was sworn in. Ms. Morris explained their family needs for covered parking spaces and for a pool house.

Chairman Ireland asked for anyone who was in opposition of the petition. No one spoke.

The staff supports the variances as there are some larger structures in the area. To deny this request would deprive them of a privilege that has been granted to others in the area. Mr. Woolard provided photos of the area neighbors that demonstrate larger structures. There is a slope on the property. These properties are very large and so a structure of this size will fit better than a small property. Mr. Simeone stated the three evaluation criteria. The public safety and central character to the neighborhood are convincing however, the harm to surrounding property was not. The neighbor to the West was not present and Mr. Zimmerman was wondering if the city addressed the drainage issue with that neighbor. Mr. Woolard met with the West neighbor and clarified

the drainage plans. The plan is to drain water to the northeast and then East side of the petitioner's lot. Chairman Ireland stated that by code the property owner is responsible for the watershed from their own property. The building permits would monitor the progress of the drainage concerns as construction ensues. Mr. Carter also addressed the drainage concerns.

The vote on the variances were approved with a vote of six (6) voting in favor and (0) against.
Mr. Zimmerman: Yes Ms. Buragas: Yes Ms. Meek: Yes Chairman Ireland: Yes Mr. Briggs: Yes Mr. Simeone: Yes

OTHER BUSINESS. Mr. Briggs inquired on the status of special use for Erics' bar/restaurant. Mr. Woolard stated that the city council approved the petition.

NEW BUSINESS. Chairman Ireland stated the need for board member contact information to be emailed to all board members once updated. He requested an email to everyone. Chairman Ireland acknowledged the need to maintain accuracy of board members on the Bloomington web site.

The board inquired about the legal notices for the Zoning Board of Appeals meetings. Mr. Woolard explained the law regarding the publication of said meetings.

PUBLIC COMMENT. None
Chairman Ireland asked to move this agenda item to follow the cases on the future meeting agendas.

ADJOURNMENT: 4.38 pm