

**CITY OF ST. CLAIR
ZONING BOARD OF APPEALS MINUTES
WEDNESDAY – July 15, 2015 - 7:00 P.M.
CITY HALL – 547 N. CARNEY DR.**

CALL TO ORDER:

Chairman Jim Bier called the meeting to order at 7:02 p.m.

ROLL CALL:

Present:	Chairman	Jim Bier	Vice-Chairman	Phil Pokriefka
	Member	Art Wimmer	Member	JoAnn Westrick
	Member	Ralph Gizowski	Member	Doug Vernier
	Member	Chris Robbins	Member	Branden Hill

Administration: Planning/Zoning - D. J. Boulier

Absent: Daniel Seibel - Excused

Audience: Don/Betty Fryer, Peter Oleszczuk, Andrew Rossell, Russ/Barbara Hill

APPROVAL OF AGENDA:

Chairman Jim Bier entertained a motion to approve the agenda. Branden Hill made a motion to approve the agenda as presented. Supported by Phil Pokriefka. All in favor, opposed none

APPROVAL OF MINUTES:

Chairman Jim Bier entertained a motion to approve the minutes of July 15, 2015 . Art Wimmer made a motion to approve the minutes. Supported by Branden Hill. All in favor, opposed none

Introduction of Doug Vernier – New member to Zoning Board of Appeals

CORRESPONDENCE None

UNFINISHED BUSINESS: None

Jim Bier entertained a motion to open the first public hearing. Art Wimmer made a motion to open the first public hearing. Supported by Branden Hill. All in favor, opposed none.

PUBLIC HEARING:

- 1. Midwest V, LLC
Fred Moore Highway
St. Clair, MI 48079
74-07-055-0035-001
Applicant is asking for a variance to Article 7,
Off Street Parking & Loading**

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D.J. Boulier – Mr. Andrew Rossell representing Midwest V, LLC, is proposing a new 9100 sq ft building for general commercial use. They were at the Planning Commission last week. Planning Commission tabled this until they came before the ZBA. The site plan is very preliminary. This site is due able although it would be very tight.

Andrew Rossell- AR engineering, 4664 Campus Drive, Kalamazoo – I am representing both the seller, Romeo Investments as well as the buyer, Midwest V, LLC. Peter Oleszczak is here with me representing the owner. We went before the Planning Commission last week and had a great discussion. As D.J. mentioned we are interested in building a 9100 sq ft retail building. This site drops off quite considerably. From the credit union to the river it drops about 30 ft. From our property it drops about 20'. The ideal location for the parking would be along the west side. There we would have to deal with the 20' drop off again. We are proposing 10 spaces out front, 8 in the immediate front of the building and 12 along the side. The tenants have extensive experience in the retail market, they have over 12,000 stores, and the maximum they require is 30 spaces. That meets their needs in locations that are urban or rural across the country. We don't feel it is responsible to put the extra spaces in given the storm water aspect and increasing the impervious surface. Per code 47 spaces are required for gross floor area. We are requesting a variance for 17 spaces. Typically what we see is an ordinance that uses useable floor area calculations that subtract out storage, restrooms and break rooms which would reduce our parking spaces required to 37 by ordinance. That was one of the questions at the Planning Commission. They did not have a problem with the preliminary lay out using gross floor area; however, we need to come to them with all the parking required or a variance approved by the zoning board of appeals.

Jim Bier – Is the parking the only variance or is there also a variance required for the loading area?

Andrew Rossell – On the revised plan we have incorporated a loading area of 10' by 50' on the south end. The only variance request would be for parking.

Jim Bier – Did you consider adding more parking by moving the detention pond back and utilizing more of the property?

Andrew Rossell– At the Planning Commission meeting we did discuss moving the detention pond back. Obviously we would have to add another drive and parking spaces in the back. It gets pretty tight when we are grading this by adding the pond and parking spaces. It would not be achievable adding 17 spaces and the detention pond plus the added impervious area which would make the basin bigger.

Phil Pokriefka – How many feet would one row of parking in the back add?

Andrew Rossell – You would have 24' of drive aisle and another 20' of parking. Then you could get 8 to 10 spaces back there.

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Jim Bier – When I look at the credit union and the number of spaces they have – their building is similar in size – I see they did fulfill the ordinance requirement for their building. It is unlikely they fill their parking lot at any one time, yet they did not come and ask for a variance.

Chris Robbins – The other thing that I would add is there are a lot of other ways to achieve the detention requirement. You can put in underground detention under the parking lot. There are several ways to get around using the surface area issue. This is probably the most inexpensive way. Then you could still use the acreage and satisfy the parking requirements.

Jim Bier – I looked at a new store in Mt. Morris – it happens to be Family Dollar. It is developed with 50 spaces. Significantly different from 30.

Andrew Rossell – Speaking from my experience, I have done a couple hundred stores from here to Ohio. This is typically what we install. Most of the time we do seek a variance for the 30 spaces. We do see ordinances that require anywhere from 14 spaces up to 91. spaces. The majority do base it off of useable floor area. They typically have from 5 to 8 cars on average at any one time.

Peter Oleszczuk, 403 Oak, Spring Lake, MI – I am the developer and potential buyer. I can speak to the Mt. Morris store because we did a Dollar General store there. We did get a variance for that store. They also had a very large parking ordinance requirement there. This is something we come across frequently. Most of the time the idea is to keep the Impervious area consolidated so people do not have to parking in the back to access our front door. As you can see this is a standard prototype that allows the store front to face Fred Moore Highway and allows parking close to the front door. We do not want to overbuild a lot that does not have to overbuild under the circumstances. In that vein we would certainly appreciate your consideration for the variance.

Branden Hill – Do you always build new? The tenant has no interest in taking over vacant retail?

Peter Oleszczuk – No, they desire to build to suit according to their prototype and floor plan.

D.J. Boulier – The layout of the building is 70' by 130'. Is there any room to move on the width of the building or is this typical for their store?

Art Wimmer – Would they change the size of the building to meet more parking requirements?

Peter Oleszczuk – No, they want to maintain that particular layout so all the stores are similar in layout.

Ralph Gizowski – We have had a dollar store downtown that did not make it. If that is the case here what happens if you want to lease it to someone else? If we give you this variance they may not be happy with the minimum parking.

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Peter – Dollar General is very thorough in how they select their market. We have a corporate guarantee of 15 years with extensions every five years. They do not pick an area where they do not feel they would succeed. As an owner of that property it would be in my best interest if another tenant would lease this property to add more parking if necessary.

D.J. Boulier – How often do you have semi trucks in there?

Peter – Over the road semi's unload once a week. You occasionally get a Pepsi truck, Farm Fresh, etc. which unload throughout the week. They are smaller trucks.

Barbara Hill, 410 Witherell – Do we really need a Dollar General in St. Clair? We had a dollar store that did not make it, .Do we want to build another building and then find out that St. Clair residents go to Marysville to shop?

Jim Bier- We have a set of standards. It is not the ZBA's role to rewrite our zoning ordinance. We are certainly listening to what you are presenting tonight to appeal for a variance. To go from 47 spaces to 30 spaces is large. The two things you have presented so far is your standard need is for 30 spaces. You want to mitigate your impact on the environment so close to the river. I think there is some validity in that. Yet the magnitude of the variance is large. How far did you go to comply with the ordinance? On what basis were the 47 parking spaces established.? Is that something we should evaluate here tonight or is that a Planning Commission issue. That is not something I am going to answer for the rest of the members. I am just throwing it out there for the rest of the members to think about.

Art Wimmer – It looks like they have done their homework on a lot of stuff here. The one thing I haven't heard is if you have done a traffic study of the area coming into town and leaving town and how parking spaces will affect any of that. Will the reduction on the number of parking spaces have an impact on east or west traffic backing up on Fred Moore?

Andrew – No, we have been in busier places than Fred Moore where we did not have this long of a drive so we do create a lot of stacking. We have grading issues here we need to work through. Typically we do not have a survey done at this point. We are trying to do what is best for the site. I respect your ordinance and understand where it is coming from. We are here to try and address as many issues as we can. I believe we could count those spaces as bank spaces. The tenant is going to be the driving force here because if their parking lot is full and I can't get in I am going to leave.

Jim – Have you considered your proximity to the nature trail?

Andrew – We have discussed that. Hopefully that will be a benefit.

Ralph Gizowski – They are going to use your parking.

Jim Bier – They have a sign at the bank and the credit union parking is for their customer use only. To me you are more compatible as far as increasing foot traffic. Where would be

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the best parking for people on the nature trail? At the rear of the building.

Peter Oleszczuk – That becomes a completely different liability at that point. I do not want to design the parking to accommodate the nature trail. I hope it increases foot traffic but I certainly have to take into consideration the liability on the development and our tenant just as the credit union has done.

Jim Bier – So you understand our format and also for you, Don and Betty Fryer, since you are the next petitioner, this is a quasi-judicial board and in order to help affirm that we do not get overturned on appeal if you disagree with any decisions that we make we typically close the public portion of the meeting and each member of the board makes a statement for the record as to what their point of view is. We can continue to discuss a little longer or we can vote but I want you to understand that any time before we vote you can request that we table this and you can go back and make modifications to the plan. If we vote and turn it down you cannot come back and request the same variance for a period of 12 months.

D.J. Boulier – If you were to move the detention basin back and put parking in the rear put in spaces for future parking instead you could probably get 12 spaces in there. Everything would move back.

Andrew Rossell – We would have to move the dumpster back which would take up 2 spaces and that leaves us with 90'.

D.J. Boulder - You have 30 spaces in the front. If you give them something to work with as to what you can do then you may have a chance for the variance. If you could show 11 parking spaces in the back.

Jim Bier – Is there support here for the variance without further work being done?

Joann Westrick – My concern is causing the builder more expense than necessary. Are there going to be 47 people parked there at one time? Am I going to park behind the store? No, so are we causing the owner more expense without reasonable justification? I don't see it as a problem other than I was concerned about the trucks and the unloading which they have addressed with the new site plan.

Art Wimmer – I picked up on your conversation as far as tabling it and coming back later but I feel the same as Joann.

Phil Pokriefka – I would like to see that property be used. This business might start and be perfectly fine but if they were to move out now we have this building parking that maybe won't accommodate another business. They should not have to put parking in to accommodate the nature trail, that is none of their concern, but if people are using it for that there would not be enough spots. Dee's idea of banking parking is a good idea.

Ralph Gizowski – The zoning states 47 spaces, I think you should go back and work it out. Chris mentioned you could put underground drainage in if necessary which would give you more parking.

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Andrew Rossell – We could do things differently but the cost would be prohibitive.

Jim Bier – It looks to me like you say you need 30 spaces and that is what you put on the site and that is what you are asking for. I don't think all of us are comfortable with 30 on this site. I think the useable sq ft as compared to gross sq ft. is okay. I think your employees and foot traffic will be based on useable sq ft. but has everything been done with this site to get to the 47 spaces? Our discussion says yes you can add more parking spaces.

Andrew Rossell – Would it be acceptable if we could get 8 to 10 more spaces in the back? If it is banked it is a commitment by the developer to put the spaces in if the Dollar General went out and it was rented to a different tenant that needed the extra parking.

Jim Bier – We want to see the property developed. We do have some parameters that we have to abide by as to why we grant variances.

Chris Robbins – I would be okay with bankable spaces and moving the detention pond and have it sized for ultimate build up. I like the idea of banking further spaces down the road. I would like to see the space used but built to accommodate future enterprises.

Branden Hill – I agree with Chris. I do appreciate you not wanting to go closer to the river and having more run off but would like to plan for the future. If this plan stood as presented now I would have to table it or turn it down unless some modifications were made.

Doug Vernier – I think they have done a pretty good job on trying to maximize the parking. I agree I would like to see the additional spots in there but this is an exceptional piece of property.

Pete Oleszczuk – If we came up with a design that the banked spaces were 10 would that be acceptable? We would have to do our design accordingly.

Jim Bier – If you choose to table your site plan tonight you would not be charged again, you could revise it to meet the ordinance or we can continue to discuss this. Some people right now would say plan for the extra parking and you don't have to build it immediately, others would say no.

Peter Oleszczuk – We did look at this and do our homework and identified what we need for this facility and we have identified that 10 spaces can be done. I am sure everyone has seen or heard of banked spaces. It is a good way to find a happy ground on a variance.

Jim Bier – You are asking if we would allow you to revise your variance request tonight and state that you are able to provide 40 spaces and would like to defer development of 10 of those spaces. If we act on this and approve it then you are free to complete your plans and submit them in a conventional manner to Planning Commission.

Andrew - Speaking on whether we would choose to act on this or table it tonight it would be my preference that you would act on the ten spaces. Obviously we would take the site plan through full design.

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Jim Bier – We will go through the drill again.

Comments

Branden Hill – Yes, if they can show they can make the additional parking spaces available I am okay with that. I like the idea of optimizing the property which would make it available for future use.

Chris Robbins – The question is the number 10 or 17 for bankable spaces. I tend to go with 17 bankable to make it conform with the ordinance. Has the ordinance been examined to see if it is in line with retail trends across the country? With the online shopping that happens today are our parking requirements valid? Maybe that number is out of line with today's parking habits.

Doug Vernier – I think if the configuration of the property with 10 bankable spots were done, I would be happy with that.

Ralph Gizowski – I have a hard time with this.

Phil Pokriefka – I agree with everyone else. This is a unique piece of property and I think we have to have a little flexibility for a business that wants to go in there but also try to make it work on our end. If they bank 10 spaces and the detention pond in the back I think they have done everything reasonable to comply with the odd shape of the property. I would be in favor of the variance.

Art Wimmer – For the public that may listen regardless of what we decide it will still be a Dollar General. We have no control of what the occupancy of this business is. I like the idea of banking 10 spots, however, I don't want to put the cart in front of the horse because we do not have a final drawing. I am leaning toward tabling this until we have a final drawing in front of us. If we grant this site plan to this it is not transferrable to another business, right?

D.J. Boulter – If the use changes they would have to come in front of the Planning Commission again.

Jim Bier – When we make a motion we can stipulate in the motion that it is subject only to the use of this development and this plan.

JoAnn Westrick – I would be comfortable with this development.

Chris Robbins – Will the actual language of the variance have to be reapplied for because we are not granting a variance of 17 spaces?

Jim Bier – We always have the opportunity during the discussion to change the motion.

Chris Robbins – We could restate the motion then?

Jim Bier – Yes

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Chris Robbins made a motion to grant a variance for the vacant piece of property, Fred Moore Highway, parcel 74-07-055-0035-001, C-2 General Commercial zoned, a variance, 47 spaces required, 30 constructed with the additional 10 designed but not constructed and 7 eliminated for a total of 40 spaces per Section 7.2.3 for retail stores requiring 1 space for every 200 sq ft of gross floor area to Midwest V, LLC. This variance is non-transferrable. Supported by Doug Vernier.

Chris Robbins made a motion to close the public hearing. Supported by Branden Hill. All in favor, none opposed.

Roll Call

Jim Bier	Yes
Phil Pokriefka	Yes
JoAnn Westrick	Yes
Art Wimmer	Yes
Doug Vernier	Yes
Chris Robbins	Yes
Ralph Gozowski	No
Branden Hill	Yes

Jim Bier – Motion Carries

**2. Betty Fryer
1710 Clinton
74-07-053-0049-000
Applicant is appealing Section 5.33, Schedule of Accessory Structures**

Jim Bier entertained a motion to open the second public hearing. Phil Pokriefka made a motion to open the public hearing. Supported by Branden Hill, All in favor, opposed none.

D. J. Boulier – Don Fryer, representing his wife Betty, owner of 1710 Clinton, 74-07-053-0049-000, is appealing Section 5.33, Schedule of Accessory Structures to construct an accessory structure. He is proposing to add a 26' by 20' addition to the existing structure. The property has a road frontage of 100 feet and a depth of 250 feet for a total of 25,000 sq ft.

It is well within the 30% usage of the rear yard area for an accessory structure. Section 5.33 says 65% of the first floor square footage of the main dwelling or 900 square feet, whichever is less. This proposed structure is 1207 sq feet. which requires a variance of 596 square feet. He requires a variance of 1'6" for height because of the proposed height. He will also need a variance for side yard setback because the overall length of 46' requires a variance of 3 feet additional. The site plan shows the proposed structure is located 12.5 feet from the east property line. Because of the building length the required side yard setback would be 15.5 feet.

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Don Fryer – 1721 S. Delano – This property is transferred into my wife's name. This property contacts our property, it is right behind our house. The garage was built in the 40's. We need some extra storage. The house on Clinton has an upstairs so it actually bigger than just the floor footage. I am hoping that can play into the footage also. Betty's Mom purchased this house when she needed to be closer to family. We intend to keep it for family. As far as the height of the building – the 7/12 pitch matches the house. At a 6/12 pitch it would not be in need of a variance. There are some other big garages in the area. The house next door has an attached and a detached garage. The neighbor on the other side has a big pool. From the street you would not notice this addition other than if you look for the horse which will have to move to the side.

Branden Hill – You are actually going to tear the flat part down and rebuild off the existing.

Don Fryer – Yes

Phil Pokriefka – How many feet is the garage from the property line now?

Don Fryer – 12' 6", you can still drive a vehicle around the building.

Jim Bier – You understand what Dee was explaining? The length of the building requires some additional setback. Existing it complies.

Art Wimmer – Are going to have a dirt floor on the new construction or is that going to be concrete?

Don Fryer – Concrete

Art Wimmer – You live behind the house on Delano? Will another family member still live in the house?

Don Fryer – Yes. We will be the ones that will not be able to use it as a homestead.

Jim Bier entertained a motion to close the public portion of the meeting Brandon Hill made a motion to close the public portion of the meeting. Supported by Art Wimmer. All in favor, opposed none

Comments

JoAnn Westrick – I wondered about the 46'. Could we shortened it 5' to eliminate the need for the third variance?

Jim Bier – Would that work for you if we eliminated 6' on the length?

Don Fryer – Yes

D.J. Boulter – I can let him go with the 7/12 pitch to match the house which would eliminate the need for that variance. I did not have that verified before. That being said if

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they do not get a variance they cannot get more than a 9' sidewalk. I would rather grant the variance to give him the flexibility to do what he wants to do.

Art Wimmer – What is the hardship here? Is it the length of the boat?

Don Fryer – Yes, I do not want to store a boat outside. I have talked to about five neighbors and they were happy about having the building improved.

Ralph Gizowski – Will your garage go further back than the neighbor's detached building?

Don Fryer – No, it will not go that far. On Carney when you look east you will see the horse.

Phil Pokriefka – I have no issue with it as presented. The lot is big enough to accommodate it.

Ralph Gizowski – I do not have an issue with it.

Doug Vernier – Being new on the board I wonder does this set a precedent for other lots that are the same size?

Jim Bier – This is a little different than most of the variance requests we get. Many of them are for when lots were smaller and people did not own lots of toys. Then we deal more with side yard setbacks for safety reasons. We did consider having the zoning ordinance revised but realized we really should be looking at these on a case by case basis.

D.J. Boulter – The parcel on Clinton is a R1 zoning. Delano is R1A which drops down to a 3' setback. This lot is definitely big enough to accommodate this structure.

Chris Robbins – No objections

Branden Hill – No objections.

Jim Bier – I am supportive of eliminating one variance by shortening the building to 40'. The presenter is amiable to that. The two variances – height and square footage – I am comfortable with that. This structure does not overwhelm the lot at all. From the street you really will not be aware this was done. It has very minimal impact on the neighborhood.

Branden Hill – Is the six feet going to make any difference? You will not see it from the road.

Jim Bier – Our charge is to grant the minimum that is required to satisfy the need.

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Jim Bier entertained a motion for the variance. JoAnn Westrick made a motion to approve a variance for 1710 Clinton, 74-07-053-0049-000, Section 5.33, Schedule of Accessory Structure, one for building size variance of 26' x 40' and the second variance for building height to approve 1'6" variance for additional height. Supported by Chris Robbins. All in favor, opposed none

Jim Bier	yes
Phil Pokriefka	yes
JoAnn Westrick	yes
Art Wimmer	yes
Doug Vernier	yes
Chris Robbins	yes
Ralph Gizowski	yes
Branden Hill	yes

Jim Bier – Motion carries.

Jim Bier entertained a motion to close the meeting. Branden Hill made a motion to adjourn the meeting. Supported by Phil Pokriefka. All in favor, opposed none.

Meeting Adjourned at 8:49 p.m.