



**Zoning Board of Appeals Meeting Minutes
Remote Meeting by Zoom**

CALL TO ORDER

Chair William Darbee called the meeting to order with a quorum at 7:00 p.m.

INTRODUCTIONS & ROLL CALL

Present: William Darbee, Jan Rise, Chris Greenleaf, Lonnie Dowd, Larry Elliott

Absent:

Excused:

Others: Staff Liaison, Scott McKillop; Terry Moulthane, AICP, Planning Manager; Lisa Griffiths, Planning & Zoning Administrative Assistant

APPROVAL OF MINUTES

None.

PUBLIC COMMENT - NON-AGENDA ITEMS

None.

NEW BUSINESS

1. Z 21-05 1100 N. Grant – Diomas, LLC

Diomas, LLC is requesting a variance from the zoning regulation governing the distance between buildings and rear lot lines in the R-2 zoning district. The appellant wants to divide the subject property into four individual parcels or lots, three of which would be occupied by buildings. Two of the proposed lots are occupied by the former St. Joseph Parish community building/gymnasium and church, respectively. Those buildings would be setback 3.96 feet from their respective lots' proposed rear lot lines rather than 25 feet required by the city's zoning regulations. A variance from Section 122-303 of the city's zoning regulations will be required for the appellant to divide the property as proposed.

Present: Christos Kelepouris, part owner.

Mr. Kelepouris explained based on the current usage and investment, he would not be able to move forward with the entire property as a whole due to the Covid19 pandemic. He would like to separate the parcels to be able to sell the buildings individually. He said they were currently having issues with vandalism. The property had been on the market for almost six months and there had been very little interest in the 43,000 sq ft. property. He felt it would be beneficial to the local community to split the property into parcels. Two different pastors had shown interest in the church; an individual had been looking at the gymnasium with the possibility for using it as a Boys and Girls Club; and a charter school was interested in the school. He believed they would be able to immediately relieve any negative effects of having vacant buildings in that area by splitting and selling the parcels individually.

W. Darbee was concerned with the small amount of parking area each building would have after being split.

Mr. Kelepouris said there would be ample amount of parking for each building though the church and the gymnasium may have an issue with the way the school was set back. He referred to the precedent set by

Holy Cross, the former rectory of St. Joseph's, where only a wall separated the building when it was split leaving almost no parking for it, yet it was allowed to be deeded and sold off.

S. McKillop did not think there was an issue with parking.

J. Rise asked if any of the parcels were being kept. Mr. Kelepouris said that was up in the air and would depend on how much they would sell for and how much of a discount might be given. He said It would really depend on what would be happening to the market and the Corona virus whether they continue with affordable housing.

J. Rise asked if anyone had ever talked to him about a purchase price for the property. Mr. Kelepouris said no and that it had been up for auction three different times. There had been one bid that fell through because the tax incentives were no longer there. He said the property was in disrepair which was an issue.

C. Greenleaf wondered about an earlier statement made by Mr. Kelepouris regarding the development of affordable housing. He was confused because it had not been mentioned before.

Mr. Kelepouris explained the uses he had described for the three buildings during his presentation were the current interests for the buildings. He said no one was interested in buying the property as a whole.

C. Greenleaf asked if he owned the property and whether the intent was to split the property when it was purchased. Mr. Kelepouris said he was one of the owners and that they had planned to redevelop the school and gymnasium but sell off the church.

J. Rise asked staff if multi-family and other proposed uses would fit in with the R-2 zoning of the property.

S. McKillop replied they would; however, they would need to jump through some hoops in order to convert the school to a congregate housing facility. He added it was the sort of project the city would accommodate due to its investment in the community.

L. Elliott asked if lot "C" would remain a parking lot. Mr. Kelepouris said they would offer to sell that lot for extra parking to whomever purchased the other properties that would need it more as it related to the intended use of the properties.

C. Greenleaf was concerned there may not be enough parking for one or the other property depending on its use and which one ended up with the extra parking lot.

S. McKillop explained it did not come into play because the number of required parking spaces would be unknown until the properties were reviewed for development. He added everything else being proposed was legal to do.

C. Greenleaf asked if there would be ample room between the buildings for emergency vehicles. S. McKillop said he could not speak to that.

Mr. Kelepouris stated there weren't any entrances to the buildings located where the two buildings met where the setback was lower. The entrances are located on the corner of the buildings where they are wide open and easily accessible. The entrances to the church are in the front and on the side where the parking is.

L. Elliott believed they would only be deciding on the setback for parcel A and parcel D where there would only be seven feet between the two buildings. S. McKillop said he was correct. L. Elliot noted there had been discussion in the past about certain commercial businesses that were not required to have setbacks and wondered if it would be similar for this property depending on the zoning. S. McKillop answered the creation of a lot line would not exacerbate the situation and they were not required to tear down and move both buildings in order to meet the current setback regulation of 25 feet.

Mr. Kelepouris reiterated the Holy Cross situation stating the setback was literally only the width of a wall and had been sold and split off from St. Joseph's prior to them purchasing the property.

W. Darbee asked if staff had any recommendations one way or the other. S. McKillop said the division of the property would help ease its ability to be sold. He summarized the proposed uses noting they would be accommodated by the R-2 zoning district.

W. Darbee asked if the setback would revert back to the normal 25-foot setback if both buildings were torn down. S. McKillop said it would. If the buildings were to be demolished and rebuilt, they would be required to have a setback of 25 feet and each lot would be much larger than the normal 5000 sq. ft. city lot.

DISCUSSION and FINDING OF FACT:

L. Elliott commented:

Standard A

Strict compliance with restrictions governing area, setback, frontage, height, bulk, density, or other nonuse matters will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with this chapter unnecessarily burdensome.

Essentially without the split, both of the properties become unusable unless both buildings were torn down which is unreasonable and burdensome.

Standard B

The variance(s) will do substantial justice to the applicant, as well as to other property owners.

Yes, it will allow the property to be used. Splitting makes sense as he didn't see too many people wanting to use the whole property for any purposes other than a school and church.

Standard C

A lesser variance than that requested will not give substantial relief to the applicant.

There is no lesser variance to give that he could see.

Standard D

The need for the variance is due to unique circumstances peculiar to the property (such as odd shape, extreme narrowness, etc.) and not due to general neighborhood conditions to other properties in the same zoning district.

It is unique in that the buildings have been used as a church as gymnasium for about 70 years that have now been closed. The buildings were built that way and are now being split.

Standard E

The problem and resulting need for the variance has not been self-created.

The property was purchased this way. It was created years ago when the buildings were built so close together, but it was not self-created by the applicant.

W. Darbee agreed with L. Elliott's comments.

J. Rise said she didn't object to splitting the property, but she was leaning more towards doing it the same way the rectory had been done where the occupancy had been known when the case was heard. She would rather see a purchase agreement before moving forward.

C. Greenleaf agreed. He thought they should have something in writing first.

W. Darbee did not agree. The owner was having trouble selling the property and had received little interest in the property as a whole because it was so large. He said it would be like contract zoning which wasn't allowed from his standpoint.

S. McKillop interjected stating the only conditions that could be imposed with a grant of a variance were those necessary in protecting the safety and welfare. There would be no basis for a variance with that condition under the city's zoning regulations. He said it hits on contract zoning which they are not supposed to do.

J. Rise said the point of her comment was that the property had only been on the market for six months. Both W. Darbee and S. McKillop stated it had been on the market for a number of years.

C. Greenleaf asked how many days the property had been listed for on the market. Mr. Kelepouris answered the local MLS did not allow for auction properties to be listed without a dollar amount, so it had only shown as being listed for six months with realtors, but it had been listed on two of the largest commercial auction website platforms in the U.S. for six to eight months before that with little interest shown.

C. Greenleaf asked if he had owned it when it was listed with MidMichigan Real Estate. Mr. Kelepouris said he had.

Motion made by L. Elliott:

Based on the foregoing findings, I move that the ZBA grant the variance requested by the appellant.

Seconded by L. Dowd.

Roll call vote: "Yes" vote is in favor for the motion

Motion carried unanimously. Request granted.

2. Z 21-06 915 McGraw - JBS Contracting

JBS contracting is requesting a variance from the zoning regulation governing maximum lot coverage by buildings in the M-1 Light Industrial zoning district. The appellant's customer wants to construct a 100,000 square foot addition to an existing warehouse. Constructing of the addition would result in a lot coverage of 78 percent rather than 50 percent permitted by Section 122-305 of the city's zoning regulations.

Present: Joe Claybaugh, JBS Contracting; Eric Koffman, owner and Vice President of Giant Supermarket, Inc.

Mr. Koffman explained they built a warehouse in 1958 that had been leased to Bay City Milling. When Bay City Milling sold, it was leased to Michigan Sugar in 1973. They have slowly outgrown it and need more warehouse space to be able to store their sugar for long periods of time before being distributed.

L. Elliott asked if the addition would open into the existing building, or if it would be two separate buildings because of the three-hour fire wall shown.

Mr. Claybaugh stated there would be one or two openings into the existing building by using a fire curtain door. It will not have any trucking through the building. All access will be through the existing building.

J. Rise asked if there would be adequate space for all the semi-trailers parked there.

S. McKillop interjected that the building expansion project would be subject to site plan review with the planning commission. Location, parking, storage areas and storm drainage would all be looked at.

Mr. Koffman said they have 30 docks but only use about seven or eight so there will be plenty of parking.

S. McKillop reiterated parking would be subject to review and approval during the site plan review and parking would be reviewed as a condition of development going forward.

DISCUSSION and FINDING OF FACT:

Standard A

Strict compliance with restrictions governing area, setback, frontage, height, bulk, density, or other nonuse matters will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with this chapter unnecessarily burdensome.

W. Darbee commented:

Seems to be a reasonable request – 50% leaves a lot of an area that is not usable and seems like after review by the planning commission covering the parking issues etc., more occupancy of the space for storage seems like it would be something we would like to see.

J. Rise commented:

Strict compliance is difficult. They cannot do anything more to increase the size with the amount of property they have because they are bound by two streets and the railroad.

Standard B

The variance(s) will do substantial justice to the applicant, as well as to other property owners.

W. Darbee asked if any comments had been received. S. McKillop replied a couple calls had been received concerning storm drainage issues that have existed at that particular location for a long time. City staff and concerned parties were working on resolving the issues. Storm drainage on this site is also reviewed by the engineering department to determine if a storm drain permit is required.

W. Darbee said it would be resolved before any construction is done. S. McKillop stated he was correct and explained how a storm water retention system works.

J. Rise noted a rain garden for water was included in the drawing. S. McKillop said it ran along the north side of the building. It will also be on the site plan that goes to the planning commission and all of the other city departments for review.

Standard C

A lesser variance than that requested will not give substantial relief to the applicant.

W. Darbee commented:

Anything between 50 and 78% coverage would give some relief but not enough.

Standard D

The need for the variance is due to unique circumstances peculiar to the property (such as odd shape, extreme narrowness, etc.) and not due to general neighborhood conditions to other properties in the same zoning district.

W. Darbee agreed with J. Rise. They had purchased all the property that was available and were tied by streets and the railroad.

Standard E

The problem and resulting need for the variance has not been self-created.

W. Darbee commented:

It is self-created in the sense the business is growing but other than that it is not an issue.

L. Elliott concurred with J. Rise and W. Darbee's comments.

J. Rise added that It is probably the best use for that property, is a good plan, and meets all of the standards.

Motion made by L. Dowd:

I make a motion that we grant the variance.

J. Rise asked to amend the motion.

Amended motion:

Based on our discussion and foregoing findings of fact, I agree that the ZBA grant the variance requested by the applicant.

Seconded by J. Rise.

Motion carried unanimously. Request is approved.

S. McKillop advised the applicant that his next point of contact would be Terry Moulane for the site plan review process with the planning commission.

OLD BUSINESS

None.

OTHER BUSINESS

S. McKillop noted there were no pending cases for the month of July as of yet.

ADJOURN

Motion made by C. Greenleaf to adjourn the meeting at 7:51 p.m.

Seconded by J. Rise. Meeting adjourned.

Prepared by Lisa Griffiths, Planning & Zoning Administrative Assistant