

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
CITY HALL – COUNCIL CHAMBER
MARCH 15, 2016**

CALL MEETING TO ORDER

Chair Seelye called the meeting to order at 7:30p.m. and made standard introductory remarks explaining the formal procedure, courtesies and right of appeal.

ROLL CALL

The Recording Secretary called the roll.

Members present: Barnette, Barringer, Lindquist, Rich, Seelye, Stevens and Vergun

Members Absent: Masood

Others Present: Attorney Dovre and Zoning Division Representative McGuire

SITE VISIT MARCH 13, 2016

Chair Seelye noted when the Zoning Board of Appeals members visited the site.

The Sunday site visit begins at 9:00a.m. at City Hall. It is an advertised open, public meeting under the Open Meetings Act, is only for informational purposes; the Board members abstain from any action, hearing testimony, or any deliberations.

APPROVAL OF AGENDA

MOTION by Stevens, support by Rich, to approve the agenda as published.

MOTION CARRIED 7-0.

NEW BUSINESS:

- A. ZBA CASE: 3-16-5587
LOCATION: 29036, 29024 Grand River Avenue
PARCEL I.D.: 23-36-304-016, -022
REQUEST: The following variances are requested in order to expand an existing gas station and convenience store in a B-3 zoning district: 1. A one parking space variance to the 18 space parking requirement; 2. A variance to the requirement that a loading zone be located in the rear yard to permit the loading zone in an exterior side yard.
CODE SECTION: 34-5.4.2; 34-5.2.11
APPLICANT: Mike Nassar
OWNER: MDN Real Estate Investment, Inc.

Utilizing overhead slides, Zoning Representative McGuire described the location of the property, showed an overhead view of the property, location of the gas station and building, photos of the existing gas station and building, along with a site plan provided by the applicant. She explained that the applicant is proposing to combine the two parcels and develop the site as a gas station and convenience store with an

additional tenant space. She noted that the applicant has appeared before the Planning Commission in January 2016 with their site plan and their proposal includes demolition of the existing small gas station building, the dumpster enclosure on the easterly site and removal of curbing and fencing to allow reconfiguration of the sites into one. The applicant proposes to convert the existing 4,000 square foot building into a 2,539 square foot convenience store with an additional 1,461 square foot retail tenant space. She added that the site is unusual as it does not have an interior yard, therefore, the loading zone will require a variance. She explained that the Planning Commission has approved the site plan contingent upon the applicant coming before the Zoning Board of Appeals to get variances for the loading and unloading area and for the plus one parking space.

Mike Nassar, applicant, 29024 Grand River, explained that he needs the variances so he can improve the site. He noted that regarding the plus one parking space, on the northeast side they had an old variance for a parking space when they installed the canopy and added more landscaping. As far as the loading zone, the person that previously occupied that building used the same spot so they are not asking to change the location. He stated that there is no rear yard on this property so they do not have anywhere else to locate it and the proposed loading zone is the best location as it will not interfere with any traffic from the gas pumps. He added that they are putting a lot of landscaping in to beautify the site and they plan to beautify the building on the outside with nice brick and façade. They are ready to move, just waiting on the variances.

Chair Seelye questioned the large gasoline tank onsite and asked if it will be buried. Mr. Nassar explained that they had ordered a larger tank a year and a half ago and had to take delivery at the beginning of the year and it will be buried as soon as the project starts.

Chair Seelye asked if they will have the same number of gas pumps. Mr. Nassar responded that the canopy will stay the same as well as the number of pumps.

Chair Seelye questioned the rental space and if they had a tenant yet. Mr. Nassar responded that they may not rent the space and just utilize the whole space themselves.

Member Stevens asked if the parking lot on the west side will be employee parking. Mr. Nassar responded that it will be parking for customers that come in from that side, since there will be access to the building on both sides, and employees as well.

Member Rich commented that the parking lot on the west side of the building does not have a wall between it and the residential area, as does the other side, and asked if a wall is required. Mr. Nassar responded that their site plan includes the installation of a 6 foot wall on that side to match the existing wall.

Member Rich commented that the area of the building in which the loading zone is connected to is identified as future tenant space and questioned if the loading zone be sufficient in order to take the merchandise into the area marked for the convenience store since it is on the other side of the parking lot. Mr. Nassar responded that they had looked into that and it is one of the reasons they may not have a tenant but there will be an access door and the storage will be located in the back in that area.

Chair Seelye opened the public hearing.

Cas Ploski, 21213 Waldron, President of Old Towne Homeowners Association, explained that Mr. Nassar has been a good neighbor and team player for decades and if he needs a loading zone on the side lot or a

variance for one parking space, he encourages the Board to give it to him. He noted that when the Mayor comes to Old Towne Park for their Fourth of July functions, Mr. Nassar gives out gas cards as prizes, and when they need something in the neighborhood, Mr. Nassar is always there to help them out. He does not see any reason to not grant the variances. He stated that the loading zone on the side lot will be better than the current situation because as of right now when they are delivering it is hard to get into the gas station. He added that Mr. Nassar has worked to shield the lights on his property and has been willing to tone things down and make it more in line with the Master Plan. He sees this proposal as an improvement.

Scott Mowrey, 21324 Jefferson, explained that he lives directly north of the site and he has concerns. He stated that he has no issue with the loading dock but when he hears that customers or tenants will be parking on that side he gets concerned because currently there is no wall and the concrete wall on the other side is not tall enough. He stated that there is going to be more opportunity for incidences and people coming up and down his street but if that side were only just for loading it would be a good thing.

Zoning Representative McGuire mentioned that she had Planning Consultant Arroyo's review letter of the site plan and it states that per section 34.5.1.5, a 6 foot high masonry wall is required to screen the establishment from the residential area located to the north of the site. There is currently a masonry wall located along the north property line screening the residential property that fronts on Jacksonville Street. The site plan shows the removal of a split rail fence between the residential property and 29036 Grand River Avenue. A 6 foot high obscuring wall constructed to match the existing wall as well as three deciduous tree plantings on the north side of the property is proposed, so the standard has been met for the wall.

Robert Fini, 21420 Jefferson, explained that he does not want the flow of traffic running down the street, there are kids on the street and he is picking up garbage all the time off the street and in front of his house. He has known Mr. Nassar for years and he does like him, he just does not want the extra traffic. He also asked if the neon light could be toned down as it lights up his kitchen.

Mr. Nassar explained that with regards to the wall, it will be up to code and they will install trees as well. As far as traffic on the other side, there will not be any pumps there so not many people will use that side it is just a convenient way to get into the store from that side. He noted that people use Jacksonville to get to the gas station and also to cross Grand River Avenue since there is a turn around.

Member Lindquist questioned if there will be a store front that faces the Jacksonville side and the Jefferson side, but not on Grand River Avenue. Mr. Nassar responded that was correct.

Chair Seelye asked what was in the building previously. Mr. Nassar responded that it was a kitchen store with a display and workshop area and it has been closed for about 8 years.

Zoning Representative McGuire reminded the Board that what is before them tonight is just the two variances and the Planning Commission has reviewed the site plan for conformance with ordinance standards.

Member Stevens commented that based on the size of the parking lot, there is only one handicap space required and there are two proposed. He stated he believes with very little modification they could have an additional parking space based upon the handicap space on the west side and the access isle, although he feels that what is proposed is better as it provides two handicap spaces.

Zoning Representative McGuire commented that she met with Planner Mark Stec and they looked at both the west and east sides to see if it could be reconfigured by removing one of the handicapped spaces and they both also felt that having a handicap space on each side was better. She added that they really could not have made it work without changing the site plan which had already been approved by the Planning Commission and the desired extra landscaping they wanted.

Seeing that there were no further comments, Chair Seelye closed the public hearing.

Chair Seelye asked Secretary Stevens if there was an affidavit of mailing. Secretary Stevens said there was an affidavit and there were zero returned.

Chair Seelye brought the matter back to the Board.

MOTION by Rich, support by Lindquist, in the matter of ZBA Case 3-16-5587, to GRANT the petitioner's request for a one parking space variance to the 18 space parking requirement and a variance to the requirement that a loading zone be located in the rear yard to permit the loading zone in an exterior side yard; because the petitioner did demonstrate practical difficulties exist in this case, specifically:

1. Compliance with the strict letter of the ordinance would render conformity with the ordinance unnecessarily burdensome.
2. That granting the variance requested would do substantial justice both to the petitioner as well as to other property owners in the district.
3. The petitioner's plight is due to the unique circumstances of the property.
4. The problem is not self-created.

Member Rich indicated that this property does not have an interior side yard and not much of a back yard, therefore, making it actually impossible to comply with the ordinance in order to have a loading zone anywhere on the parcel. As the site plan specifically calls for a 6 foot high masonry wall that addresses the concerns of the neighbor with having customers and employees parking in the other lot. He noted that due to the configuration of the property, the desire to have handicap parking spaces on both sides of the entrances and to have sufficient greenspace along with the fact that the site appears to have sufficient parking to accommodate both the convenience store and gas station, he does not see a problem with eliminating one parking space.

SUBJECT to the condition that the construction plans be consistent with the plans approved by the Planning Commission.

MOTION CARRIED 7-0.

Zoning Representative McGuire informed the President of the Homeowner's Association to contact the Zoning Department to follow up on the lighting issues and although it is an approved plan, they should contact Mark Stec in the Planning Department regarding any other needs they may have for the site.

APPROVAL OF January 12, 2016 MINUTES

MOTION by Rich, support by Vergun, to approve the Zoning Board of Appeals meeting minutes of January 12, 2016 as submitted.

MOTION CARRIED 7-0.

PUBLIC QUESTIONS AND COMMENTS

There were no public comments.

ADJOURNMENT

MOTION by Stevens, support by Lindquist, to adjourn the meeting at 7:59p.m.

MOTION CARRIED 7-0.

Respectfully submitted,

James Stevens, Secretary
Zoning Board of Appeals

/ceh