



City of Oakbrook Terrace
Planning & Zoning Commission Meeting
Tuesday, January 4, 2022
Case #22-07

The Planning and Zoning meeting was called to order by Chairman Caslin at 6:00 P.M.

Chairman Caslin asked Building and Zoning / Planning and Zoning Secretary Lozano to take roll call.

Present: Chairman Caslin, Commissioners Ventura, Jackson, Freda, Donoval, Cardenas, Vice Chairperson Walberg

Absent: None

Also Present: Mihaela Dragan, Building and Zoning Administrator, Peter Pacione, City Attorney, Addy Lozano, Building and Zoning / Planning and Zoning Secretary

Chairman Caslin said the first order of business was to approve the minutes of December 7, 2021, Case #22-06, 17W275 Butterfield Road, Petitioner, City of Oakbrook Terrace.

Chairman Caslin asked if there was any final discussion.

MOTION Commissioner Freda moved, and Commissioner Ventura seconded the motion to approve the minutes of December 7, 2021, Case #22-06, 17W275 Butterfield Road, Petitioner, City of Oakbrook Terrace.

Chairman Caslin asked Building and Zoning / Planning and Zoning Secretary Lozano to take the roll call.

Ayes: Commissioners Ventura, Donoval, Jackson, Freda, Cardenas, Vice Chairperson Walberg

Nays: None

Abstain: Chairman Caslin

MOTION PASSED WITH A 6-0 VOTE.

Chairman Caslin asked all those who will be speaking this evening to please stand up and be sworn in.

Nicole Marie Berkshire and Gary Berkshire, property owners of 17W433 Karban Road were sworn in by Addy Lozano, Building and Zoning / Planning and Zoning Secretary.

Nicole Berkshire took the floor and thanked the Commission for their support on this project and stated, we purchased the property in December 2018, and it has been a journey to get where we are today. We are grateful to be able to build the home of our dreams in a city that we love surrounded by several family members and we could have not done it with the support of the City of Oakbrook Terrace. The reason we are here today, is to request a variance for our driveway width and to permit construction of a future backyard patio. It was recently brought to my attention that the current code for the driveway is 25 feet and we exceeded that by 5 feet. If you have visited the property, you'll see we have a 3-car garage with a double car on the left and a single car on the right. The lot itself has a residential property to the east and a commercial property on both the south and west side. When designing the home, we intentionally positioned the garage this way as a common courtesy to our neighbors to the left as my husband parks his Ford F-350 on the single garage as it has a large diesel engine. The driveway as designed allows for a straight pull-in access for that truck into the single car garage which would prove to be difficult if complying with the ordinance. It is our opinion that the usage has no adverse effect on the neighboring properties, and we have also spoken to our neighbors who have no problem with its current way.

Commissioner Freda asked, did you come in to check the code before putting the driveway in?

Nicole Berkshire answered, I do not believe this was brought to our attention until the as-built drawings were submitted.

Commissioner Freda also asked, was it on the original plan?

Nicole Berkshire answered, I believe it was submitted with a 25 foot, but I don't have the plans with me.

Commissioner Jackson asked, your neighbors across the street are not bothered by all the water in the driveway?

Nicole Berkshire answered, we had a storm water plan, and we had an engineer involved during this process, there shouldn't be any water issues. We have taken the proper protocol as far as the elevation.

Commissioner Ventura commented, you are asking for a variation on something that has already been done, it's hard to question that because there's just the curiosity of why.

Nicole Berkshire answered, for the ease of use of the truck, and as far as the neighbors are concerned, there is no adverse effect.

Commissioner Jackson directed his question to Building and Zoning Administrator Dragan, does this meet the front yard coverage percentage?

Building and Zoning Administrator Dragan answered, yes.

Nicole Berkshire then stated, the second variation that we are requesting is for the side and rear yard setbacks to permit the construction of a patio. We love to entertain for our families, and our families are large. This future outdoor space would allow us to do that. What we ask the Commission is to consider that the southern side of the home abuts to commercial thus creating no undue burden and our neighbors to the east have no problem with the proposal. The style of the patio is in step with modern trends and would be an improvement to the neighborhood. We are seeking relief to allow improvements and use of the property based on the as-built drawings submitted.

Commissioner Freda commented, my problem is with how much you are covering with concrete leaving a small percentage for drainage. You are lower than the property behind you and the property to the east. If you cover everything with concrete, where is all the water going to go.

Nicole Berkshire answered, we intent to work with Mackie Consultants, who has been our construction engineer, on a plan revision and storm water management measures should the patio be permitted.

Commissioner Freda asked, have you considered putting in a proverbial patio?

Gary Berkshire answered, it will be paver blocks.

Commissioner Ventura directed her question to Building and Zoning Administrator Dragan, what is the ratio of coverage between the house, driveway, and patio?

Building and Zoning Administrator Dragan answered, according to the definition of structure, the footprint of the house and additional accessory structures, it should not exceed 40% lot coverage, and they are in compliance.

Commissioner Ventura then asked, including the patio?

Building and Zoning Administrator Dragan answered, yes. The variations requested are for encroachment in the rear and side yards.

Commissioner Ventura added, new construction is beneficial to the whole neighborhood, we applaud you on that, you built a beautiful home, but Oakbrook Terrace Zoning Ordinance is very lenient in relation to other towns, and there has been a lot of discussion in trying to maintain some conformity on over building on some properties. I agree with your patio because you will not be interrupting the commercial space behind you.

Commissioner Walberg asked, would you consider a smaller patio?

Nicole Berkshire answered, the reason for the size of the patio is if we had both families over it would be very tight. We have intentions of having a cook space and fire pit as well. If we don't get the variation, obviously we would have to reconsider.

Commissioner Freda asked, if you are putting in proverbial patio, why are you asking for a variation if it is blocks that water can seep through?

Nicole Berkshire answered, the variation is for the rear and side yard setbacks.

Building and Zoning Administrator Dragan added, at one point in the rear yard the patio is 12 feet due to the patio configuration instead of 25 feet and on the east side yard it is 8.9 feet instead of the minimum required 10 feet.

Chairman Caslin added, I was a champion for you for that lot and I'm glad to see you built it. I worry about water run off on that property to be a problem on Karban Road and Eisenhower Road, If you remember last summer that roadway flooded all the way across the park. I sit here beating the drum about changing the way of the land, I've done it for 25 years and I will keep doing it. If you use proverbial brick that is okay with me, I don't mind you encroaching a little bit on the side yard, but in looking at the project

you are close to full capacity. If we put these big houses on these lots, we change the way the ground sets. We are not trying to be mean, too many people have gotten away with building huge houses on small lots and creating flood problems.

Commissioner Ventura added, I have a problem voting on something that is already there.

Chairman Caslin opened the floor for any positive/negative testimony from the audience.

None noted.

MOTION City Attorney Pacione stated that no motion made for recommendation, it will be moved to City Council.

Building and Zoning Administrator Dragan added, the Letter of Recommendation will be placed on the agenda for the January 11, 2022, City Council meeting.

Chairman Caslin added, for the record no vote took place due to lack of motion.

City of Oakbrook Terrace
Planning & Zoning Commission Meeting
Tuesday, January 4, 2022
Case #22-08

Chairman Caslin said the third order of business was to consider approval for variations from the Zoning Ordinance by AVO Real Estate Holdings, LLC (“petitioner”).

Mark Daniel, representative for the petitioner took the floor and stated, this property has had significant development and re-development under three different versions of the Zoning Ordinance. This property was developed prior to the Zoning Ordinance, then had a major addition under B-2 and it is now B-3. Looking back at the history, the property is configured in a way that it is different than any other lot along 22nd Street. That whole stretch along 22nd Street where B-3 is, was part of a residential court and these lots were intended to front onto the interior streets such as MacArthur Drive and Karban Road. When 22nd Street changed, you ended up having the commercial lots facing out to 22nd Street and most of them are through lots. This particular lot is angled from 22nd Street to the northeast, it has an odd configuration, and it is also narrow. Your Zoning Ordinance has evolved, and at one point in time you had a parking classification for office, there was no distinction between medical, dental, or therapy office under any of the codes. This property was developed before accessible parking was reasonable. Now, we have two locations for accessible parking with an accessible route and we have the opportunity to expand that to four. When it comes to parking, I cannot find an explanation for what happened to the parking spaces since 1988. There was an attorney that made a presentation to the Planning and Zoning Commission and said that they were going to preserve all the parking spaces when the addition is built, which is the glass portion. When that addition was built, they were supposed to preserve all the parking spaces that was underneath the front of the building, and they couldn't do it. Numerous spaces were lost. Today we have 48 parking spaces not the 58 that existed when the addition was built. We're proposing to convert the three spaces that are 10' by 9' into 6 motorcycle spaces because the building does not have any. In relation to parking, the issue that came up with the prior owners is that they did not have a dominant tenant. In this case, AVO, the applicant, is a real estate LLC set up in relation to the tenant that is moving into the second floor. That allows some confidence in how the parking lot is going to be handled when you bring a medical office tenant. Ortho Sport & Spine is a medical style tenant that does not engage in therapeutic activities on site. The landlord inquired on the range of opportunities with the other two floors, we did some evaluation and in 1988, under Ordinance No. 88-05 there was a parking space ration of one parking space per 377 square feet. Under that ordinance at that time,

the demand without that variance would have been between 84-92 parking spaces if that office building was full.

The one thing that raises a concern with this property is the landscaping. Last year around this time you approved a landscape plan presented by the former owner. In this property we have a large right-of-way area northeast of our lot line that calls for heavy landscaping. There have been some issues with the landscaping, we had trees that were growing into a retaining wall along the parking lot causing some concern with the stability of that wall which is on the City's property. We also lost some trees on the west lot line that we have re-planted. AVO did not take ownership until after that landscape was approved, after they took ownership, they planted trees and met the landscape plan. In discussion with Mihaela, she stated that there is still some concerns on whether or not this was an adequate screen.

In the legal notice you will see a fence request. We are not asking that you allow us to install the fence, we ask that you create an envelope that would allow staff to say whether we need the fence and what type of fence. AVO has said that they are willing to install a fence with a gap for pedestrian's access. That fence can be installed if the residents are not happy. As far as the lighting is concerned, I noticed there is a light on the exterior north wall, as a condition of the remodel, we anticipate that light will comply with code and the fence will screen that light. The fence would run the north lot line on the interior of the landscape from corner to corner, there is then a gap between the large trees, and then we would wrap the corners and come down about three parking spaces towards Giordano's to the corner of the building. In the front of the property, you'll notice that there is a substantial change in grade elevation, from the entrance of the parking lot level to the west lot line there is an 8-foot change in grade. We have been evaluating that, and no one views it as a safety hazard. Fences are not allowed in the front yard, that is one variant request that we have. If the City thinks it is necessary, we will install it.

As far as signage, we are removing one of the two freestanding signs. The sign that will remain is 17 feet 10 inches tall that is measured from the parking lot grade. If you are standing on the lot line before that 8-foot drop, that sign is approximately 9 feet tall. When we replace that sign, we would like to have an envelope to go up to 20 feet tall which will have the overall appearance of 12 feet tall because of the 8-foot difference.

Commissioner Freda asked, what is the difference between the rentable and the usable in the building? I noticed you want to go up from approximately 17,000 to 23,000 square feet of rentable.

Mark Daniel answered, in reaching the calculations used for parking, the figures that we used for gross area, we used them in today's ordinance.

Commissioner Freda then asked, what is the rentable envelope on the second floor?

Mark Daniel answered, under the as-built it was 9,040 square feet, for the top floor it was 5,176 square feet. If we comply with the floor area ratio it is 18,122 square feet.

Commissioner Freda also asked, is Ortho Sport & Spine proposing to take the whole second floor?

Mark Daniel answered, yes, they plan to demo the whole floor except for 3 offices that will probably be used for real estate until the practice grows.

Commissioner Freda added, in regards to the fence where you are proposing to leave an opening on the fence that is on MacArthur Drive, there is a huge drop as well. We were not in favor of a fence, we had a landscape plan before it was sold and the planting that was put in are still very young therefore, they have not grown to full capacity, and I know the homeowners across the street are upset by all the light coming in their property.

Mark Daniel added, the plantings met the plan, I think the issue is with the way MacArthur Drive comes in, you have an angle of the building across land that we do not control, that is all open space, and you have headlights that are below the retaining wall and then you have plantings.

Commissioner Freda added, its more the garage lights that are the problem for the homeowners.

Mark Daniel added, during this process, I know there has been three occasions, and I have been there, where they have re-planted trees because they don't survive, or they don't look the way they should. I know the owners are following-up on it and the City still has a lot of leverage because they have a building permit issue, where they must meet certain requirements for the City. I know one of the conditions is going to be the exterior wall light.

Commissioner Freda asked, why are you taking down the low sign and keeping the high sign when you can have one monument sign in front of the property?

Mark Daniel answered, there are two issues with regards to signage, first, if we keep the sign on the east side of the property we would have to raise

it. The other issue is that sign clutters the landscape area, and it is very close to Mr. Danos's property. It is also better to have the sign on the west side of the property for visibility.

Commissioner Freda commented, it appears from your parking analysis, that most occupants will be out of there by 7pm and it seems like the issue is going to be between 8am-5pm.

Mark Daniel added, I want to note that Giordano's and this property owner have been working together, there is no paper, but there is a level of cooperation because Giordano's lacks parking at a time when we are closed where we can expect stress in parking during their slow hours.

Commissioner Ventura asked, so there will be shared parking to makeup for lack of parking spaces?

Mark Daniel answered, from a regulatory perspective, I am not calling it joint or shared because your ordinance does not allow it unless both sites meet the Zoning Ordinance. This is just a level of cooperation between commercial properties.

Commissioner Ventura asked, should we be concerned about people parking on MacArthur Drive should the 48 spaces not be enough?

Mark Daniel answered, I think for the purposes of our uses, they are going to park at Giordano's first, because they're already going to be in the west bound direction of traffic.

Commissioner Ventura added, I'm just wondering if any of the employees may decide to park on MacArthur Drive to preserve the 48 parking spaces in the property.

Mark Daniel added, I don't see a problem with the being one of the conditions.

Attorney Pacione added, I think you are making a condition that is not going to be enforceable. If the City wants to have No Parking signs, that must be done at a City level. My recommendation would be not to make that a condition because I don't think it puts the Petitioner at a fair spot.

Commissioner Ventura added, I think its something that the City should be aware of, its bad enough that there is a very large amount of traffic that cuts through our residential neighborhood to get to Butterfield Road.

Attorney Pacione added, that can be addressed through other parts of the code for traffic control.

Mark Daniel commented, that may be a reason to drop the gap in the fence if you are going to require a fence later.

Commissioner Ventura then added, I don't see the purpose of that, it's a big drop anyways. It will be nice to see that building occupied with a good strong tenant.

Commissioner Donoval added, concerning the fence, I don't think the fence will look good, I think a natural fencing would be much nicer. In regards to the parking, its very hard to get a tenant, was a lease signed?

Mark Daniel answered, right now there is a permit pending to build-out the second floor. For the two floors above it, there is still no lease signed.

Commissioner Walberg added, I agree with Commissioner Donoval, I would hope that we wouldn't be imposing a fence in that area, I think it takes away from the residential area more than the commercial area. I would like to see more landscaping as a berm instead of a fence.

Commissioner Ventura asked, can you please discuss the front fence? Would we possibly be setting a precedence for other businesses?

Mark Daniel answered, in the front of the property right along the right-of-way there is four at grade parking spaces and a few shrubs when you pull in, there's a retaining wall that rises to approximately 8 feet above that parking lot level, and there is a level area with some of the new landscaping above the retaining wall on the west lot line. Theoretically, those trees are enough but if someone has an accident, you have Giordano's parking lot on the other side of the lot line, and the City may think that could be a hazard and the City engineer may request a fence there. The code prohibits that.

Chairman Caslin added, for the Holiday Inn we gave them latitude on certain things if they would meet the conditions imposed. In the last couple of years, the trees have died, they cut them but don't replace them because they say they are not the ones who signed that document. Now, the City has to replace those trees and the residents have to stare at the headlights coming into their property. There has to be a concrete answer to these problems. Mr. Danos from 17W220 22nd Street turned an ugly building into a beautiful building by simply adding a lot of greenery. The Petitioner's from last year brought in a landscape plan that was no good with all small trees and did nothing, and you don't need a fence. My point is, we have to put things in writing because everyone seems to want to dodge the bullet. Mihaela can

say if she wants the fence, but that is not her job, she only enforces the rules. The City Council is the one who does it. Anything that we talk about here will go directly to them, and they can put it in the ordinance. Having partitions on the fence only invites people to park on MacArthur Drive to the point where we want to make it residential parking only. In your case, if they park at Giordano's, I think they need to have some type of written contract so that we don't get involved.

Mark Daniel added, right now both parties understand it's a handshake agreement, under the circumstance I think the most they can do is a license agreement.

Chairman Caslin added, a handshake agreement is okay in some circumstances but in others, it doesn't work.

Chairman Caslin opened the floor for any positive/negative testimony from the audience.

Zivota Zivojinovic, property owner of 17W304 Karban Road was sworn in by Addy Lozano, Building and Zoning / Planning and Zoning Secretary.

Zivota Zivojinovic took the floor and stated that he is here in regards to the landscaping in the rear of Giordano's and 17W240 22nd street. He said he would like to see more trees that cover the building. I just ask that you put the trees back, I would appreciate it.

Building and Zoning Administrator Dragan added, the landscaping plan is not on the agenda for tonight, however the homeowners can make any comment, and the Commission can approve the request with condition for additional landscaping. I know where Mr. Zivojinovic lives, and an increase in landscape in the rear of the property located at 17W240 22nd Street does not help much. Last year in January the City approved this specific landscape plan. I think the question is, is it a possibility to increase the landscape by adding evergreens? As far as your request for landscaping across the street from your property, it's not to be determined by the Planning and Zoning Commission. Public Services Department installed several evergreens in that area and trimmed the shrubbery in the City's right-of-way, but I understand that you are looking for a denser landscaping.

Attorney Pacione added, we understand what he is saying, I think he is referring to Giordano's which is not the subject tonight.

Zivota Zivojinovic added, Giordano's is okay, they have trees next to the fence, this gentleman wants to put up a fence with no trees.

Attorney Pacione added, what the City is trying to tell you, is that they cannot do work on private property.

Zivota Zivojinovic added, I'm just asking to have the trees back like they were.

Chairman Caslin added, we are aware of it, and we will pass along your message.

Chairman Caslin read an email that was sent from Donald Schoppelry and Ann Meola-Schoppelry, property owners of 1S727 MacArthur Drive that stated:

"When Ann and I bought the property across the street at 1S727 MacArthur Drive in 1995, and built our house in 1998, there was a solid wall of trees and vegetation screening the commercial property from MacArthur Drive. Over the years, a few trees died, but the commercial building still could not be seen from the street. There was never an issue of light shining over at our house.

In the past year all the screening trees and vegetation were removed, and we were very displeased with the view and amount of light coming at us from their building, especially the ground level parking lot. I attended the Zoning Commission hearings about the landscape plan, and was shown some drawings which I thought would take many years to provide adequate screening. What I see now looks like far less foliage than what were on the drawings. Most areas still have little or no screening at this time. Did they meet their plan? If not, what is the remedy?"

Zivota Zivojinovic added, that is another issue, the light that comes from the parking lot.

Mark Daniel answered, we will take care of that.

Building and Zoning Administrator Dragan added, as Mark Daniel mentioned Building and Zoning Department prepared a list with outstanding issues, that the property owner will have to take care of prior to issuance of the first Certificate of Occupancy. In the list, there is nothing about landscaping other than us requesting a lawn irrigation system to preserve the landscaping.

Attorney Pacione added, I can suggest some options, you can continue the hearing to possibly see a new landscape plan, make it a condition of your approval when you vote to have Mihaela approve a new landscape plan, or approve it as is.

Building and Zoning Administrator Dragan added, I think it is best to continue the hearing.

Mark Daniel commented, I hesitate a lot when it comes to planting in the right-of-way, but at least we have some kind of a common right to that land. If you want to see more landscaping, and the concern is with 17W304 Karban Road, which is towards the west, the only solution is not to have us plant trees, but for us to have a contribution and the City can plant wherever they choose to create that screen because that is their right-of-way.

Attorney Pacione directed his question to Building and Zoning Administrator Dragan, are we looking for more landscaping on the property or on the right-of-way?

Building and Zoning Administrator Dragan answered, the residents that live on MacArthur Drive across 17W240 22nd Street were looking for an evergreen wall, but that discussion didn't come up at the January 2021 Public Hearing when the landscape plan was approved. It came up after the current landscaping was installed. As far as Mr. Zivojinovic property's request, yes, a possible contribution like Mark suggested, in order for the City to install additional evergreens along Karban Road in the right-of-way, but this is a City Council matter.

MOTION Commissioner Jackson moved, and Commissioner Cardenas seconded to approve Case #22-08 with the condition of installing arborvitaes on the rear 30 feet of the west line and having a look back at the rear landscaping to determine if the number of junipers should be doubled to fill in the landscaping gaps. The petitioner must also submit a landscaping report and revised landscape plan to the City by June 14, 2020, and the landscaping review before the Planning and Zoning Commission on June 21, 2022.

Chairman Caslin asked Building and Zoning / Planning and Zoning Secretary Lozano to take the roll call.

Planning & Zoning
Commission Meeting
January 4, 2022
Page Nine

Ayes: Chairman Caslin, Commissioners Ventura, Freda, Jackson,
Cardenas, Donoval, Vice Chairperson Walberg
Nays: None
Absent: None

MOTION PASSED WITH A 7-0 VOTE

Building and Zoning Administrator Dragan added, the Letter of Recommendation will be placed on the agenda for the February 8, 2022, City Council meeting. There are no Public Hearing meetings scheduled for January 18, 2022, would you like to cancel the meeting?

MOTION Commissioner Freda moved and Commissioner Cardenas seconded the motion to cancel the January 18, 2022, meeting.

MOTION PASSED UNANIMOUSLY THROUGH A VOICE VOTE OF 7-0

MOTION Commissioner Freda moved and Commissioner Jackson seconded the motion to adjourn the meeting.

MOTION PASSED UNANIMOUSLY THROUGH A VOICE VOTE OF 7-0.

Chairman Caslin adjourned the meeting at 8:01 P.M.

Respectfully submitted by,

Addy Lozano
Building and Zoning / Planning and Zoning Secretary