



City of Oakbrook Terrace
Planning & Zoning Commission Meeting
Tuesday, June 19, 2018
Case #19-02

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, Schneider, Donoval, Walberg

Absent: Commissioner Cardenas

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 May 15, 2018, Case #19-01 for 17W082 16th Street Petitioner Michael S. Yahoudy & Katie Yahoudy Variations From Section 156.075 (F) (1) And Section 156.075 (E) (2) (a) Of The Zoning Ordinance.

Chairman Caslin asked if there was any final discussion.

Commissioner Douglas asked prior to motion, that it was unclear to him that they approved going from under 40% to over 40% and that they were going from being in compliance to out of compliance with the existing variance.

Chairman Caslin answered and said yes, it was approximately 48.6%.

Commissioner Jackson said yes, the final was 49% but was the existing property in compliance at 40% coverage.

Building and Zoning Administrator Dragan answered no, it was because the previous owners built structures on the property under different codes and at some point, we did not include driveways in the lot coverage calculations. For example, the area of the driveway that the house has is a very long and wide driveway.

Chairman Caslin added that they also had a shed that was taken down.

Commissioner Jackson said that he is not questioning the vote taken, the sentence in minutes read "It was agreed to bring the property in compliance with the current Zoning Ordinance".

Attorney Pacione answered that he thinks that was in relation to the size.

Building and Zoning Administrator Dragan added that she thinks that was correct, the way I read it "resulting in a request to permit the lot coverage to exceed 40% of the lot area and allow 49% of the lot area to be occupied by structures".

Attorney Pacione then added, which by granting that period it would bring it into compliance.

Commissioner Jackson answered, okay.

Chairman Caslin added it's a double hit in one.

Commissioner Jackson responded, okay, I didn't think it was ever in compliance, one other question in the very bottom of page four, the Chairman asked for a motion to approve. Doesn't the Chairman just ask for a motion?

Attorney Pacione answered, I don't recall what he asked for, he might have said approved. I don't know.

Commissioner Jackson added, let's pretend like he just did what he normally does, which is to ask for a motion, and I might have said I move to reject it, and Ann might have said I move to approve this. The asking for the motion should be neuter.

Attorney Pacione answered, whether it was or not, it would not validate the motion. I understand what you are saying but it would not if that's what he said.

Commissioner Jackson then said he was going to be a picky guy and suggest the way we say it in the minutes for the future, is that the Chairman ask for a motion without biasing what kind of motion to ask for.

Chairman Caslin answered, correct.

MOTION Commissioner Jackson moved and Commissioner Schneider seconded the motion to approve the minutes of May 15, 2018 Case #19-01 for 17W082 16th Street Petitioner Michael S. Yahoudy & Katie Yahoudy Variations From Section 156.075 (F) (1) And Section 156.075 (E) (2) (a) Of The Zoning Ordinance as modified.

Commissioner Ventura then asked what the modifications were.

Commissioner Jackson answered that the Chairman is not going to move for approval, he is just going to ask for a motion.

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

Ayes: Chairman Caslin, Commissioners Ventura, Jackson, Schneider, Donoval, Walberg
Nays: None
Absent: Commissioner Cardenas

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.

Pamela Sarno and Robert Sarno representing property owner of 1S055 Summit Avenue, Winfred Ancona, were sworn in by Addy Lozano, Building and Zoning / Planning and Zoning Secretary.

Pamela Sarno took the floor and stated, hello, I could start with the easy stuff, this is my mother Winifred Ancona. We've had this building for over 50 years and we are petitioning to rezone it from B-1 to B-3 so we can open a gaming café.

Robert Sarno then stated that they have a floor plan for the proposed gaming café.

Chairman Caslin asked for comments from the Commissions.

Building and Zoning Administrator Dragan stated that the owner of the property located at 1S055 Summit Avenue is seeking approval for rezoning of the subject property from B-1 Professional Office to B-3 General Retail, and a Special Use to allow offices, business and professional, on the first floor.

The variations requested from the Zoning Ordinance reflect existing conditions.

Following the applicant's request for rezoning, the property must be brought in compliance with the current Zoning Ordinance.

In 2008, the City rezoned numerous properties, and the subject property was rezoned from B-3 to B-1.

At this time, the owner is requesting approval for rezoning from B-1 to B-3 in order to allow a proposed gaming café to occupy the Flowers De Jour space. Flower shops are permitted uses in the B-3 General Retail district, but not in the B-1 district. Flower De Jour occupied the existing space prior to the rezoning of the property to B-1, and therefore the use was allowed to continue.

The office use is permitted under B-1 district, but a special use must be granted to allow office use in the B-3 district on the first floor of the building.

Please note that the number of parking spaces and amount of signage at the subject property is in compliance with the Zoning Ordinance, and therefore, no variations need to be addressed.

Commissioner Schneider then added to the petitioner, you said you've owned this building for about 50 years.

Pamela Sarno answered, no, my parents have.

Commissioner Schneider asked if the gaming license is going to be in your family's name.

Pamela Sarno answered, yes.

Commissioner Schneider then stated, okay, I will be really honest with you, Summit Avenue is a nasty looking street. A lot of businesses there do not look good. What type of improvements, do you have planned if this is allowed. For instance, the parking lot, roofing, siding, painting. What are your plans for the property to help start beautifying Oakbrook Terrace?

Robert Sarno answered, well on the south side of the street one of our tenants has started with new siding. We have some existing brick on the north side that needs a bit of a facelift and were definitely going to give our parking lot a bit of a facelift as well.

Pamela Sarno added something to beautify the front.

Commissioner Schneider then asked, okay, and for the parking lot, you say a little bit of a facelift. Are you re-asphalting it to make it look better?

Robert Sarno answered, yes.

Commissioner Schneider answered, okay, thank you.

Commissioner Ventura then asked Commissioner Schneider if he thought that can possibly be a condition.

Commissioner Ventura then asked, so all the variances that are being asked for are they existing conditions.

Building and Zoning Administrator Dragan answered, yes.

Commissioner Ventura asked, so if we were to say okay to all this, it stays like that forever.

Building and Zoning Administrator Dragan answered, yes.

Commissioner Ventura then added, if the property ever changes hands, it will have 0 lot line from the street.

Attorney Pacione answered it is all necessitated by the change in zoning.

Commissioner Ventura added, well it does necessitate to bring it into compliance with what our zoning is. But then if someday someone moves in and says well we want this, this, and this, and we say well, we said okay to this building so the next one can have a 0 lot line too. Commissioner Ventura then added, it's used as an example and it sets precedence in the future for other properties along Summit Avenue.

Attorney Pacione added, the alternative is if you don't grant the variations it becomes a non-conformant use so at any point in time that there will be what's 51% or more destroyed where it was rebuilt, they would have to comply with the current Zoning Ordinance. That is the default if you do not grant the variations.

Commissioner Jackson asked we can deny the zoning request.

Attorney Pacione answered that is what I'm saying, if you do not grant the variations it will become non-compliance.

Commissioner Ventura added it would be terrible for 51% to be destroyed but if it was non-conforming and then they had to conform, maybe they would put a beautiful building there.

Attorney Pacione added, they may still have to come in for variations because a new building may not fit on that particular lot from when it was first created the zoning may have been non-existing.

Commissioner Ventura answered, okay, thank you.

Attorney Pacione added, but with the changes in zoning, the special use would be required because of the new zoning.

Commissioner Jackson added, let me continue on that, and asked Building and Zoning Administrator Dragan if this property was ever in compliance with the Zoning Ordinance.

Building and Zoning Administrator Dragan answered I don't really know that I would have to go back to the 1957 DuPage County Ordinance. But I assume it was at some point when it was built because we do not have any Public Hearing files.

Commissioner Jackson added, so we should assume that at some point in the past there was a 0 lot line acceptance.

Attorney Pacione added I don't know if it was annexed and it made 0 lot line.

Building and Zoning Administrator Dragan added, probably annexed from DuPage County.

Attorney Pacione asked if it was annexed as a vacant property or a structure.

Chairman Caslin answered it was a house.

Robert Sarno added, at one point it was a home and there was an addition put in. It had to have been back in the 1960's.

Commissioner Jackson asked the petitioner, so it is your belief that you have a building permit that said you are in compliance with the existing ordinance at that time.

Robert Sarno answered, back in the 1960's, we have no idea.

Commissioner Jackson asked the petitioner when did you acquire the property.

Robert Sarno answered, my mother-in-law, has owned this property with my deceased father-in-law probably for over 50 years.

Commissioner Jackson asked the petitioner, when did it convert from a house to a business.

Robert Sarno answered, back in the 1960's-1970's.

Commissioner Jackson asked the petitioner, as best as you are aware, when you acquired it, it was not a residence it was a business and you would assume that it was in compliance at the point that it made the switch from a house to a business.

Robert Sarno answered, yes, we assume it was in compliance.

Commissioner Jackson added, okay, so it is out of compliance only because the ordinances have changed over time rather than something the property owners did.

Pamela Sarno answered that is correct.

Commissioner Jackson added, as a general retail property the other businesses in the building are not retail they are office business and professional.

Robert Sarno added, we have a flower shop as well.

Commissioner Jackson responded, exclude the flower shop.

Robert Sarno added, yes, they are all professional offices.

Commissioner Jackson added, okay so are we saying this is business and professional office other than the flower shop or is it retail or is it what the property owners want. I don't understand.

Commissioner Ventura asked, how is a gaming facility with a café general retail.

Building and Zoning Administrator Dragan answered the gaming café is a permitted use in B-3.

Chairman Caslin asked, are we assuming that the tenants are staying there.

Robert Sarno answered, yes.

Commissioner Jackson added that is my question here, what are we approving here with future tenants in the rest of the building, what can be permitted or not, what has to come for a variance.

Building and Zoning Administrator answered, any permitted use in the B-3 will be allowed, as long as they have the parking.

Commissioner Jackson asked so we are allowing them to do any retail but not business and professional.

Building and Zoning Administrator Dragan added, B-3 district is also known as general retail district, however in the B-3 general retail district many uses are permitted including a hair salon for example office use requires a special use.

Attorney Pacione asked Building and Zoning Administrator Dragan, correct me if I am wrong, but because we are going to B-3, office and professional was not allowed on the first floor so that is what the special use would be, to continue the tenants and future tenants would be able to do office in the first floor by granting that special use.

Commissioner Jackson asked if the insurance or tax company would not be there now, and they came in and said we want to be there after we change to B-3, would that be allowed or would it require a hearing.

Building and Zoning Administrator Dragan answered it would require a public hearing.

Attorney Pacione added, if they did it in the future, they would still have to come back but they are choosing to do it now and with the current tenants now, they have to do it.

Commissioner Jackson added, but we are excluding the ability to allow tenants like they have now.

Attorney Pacione responded, you're granting them the use to use it as an office, if you didn't grant it, it would be the same thing as the variation. Once those tenants move out no other office and professional would be allowed without a public hearing.

Commissioner Jackson asked so we are not allowing them to replace the insurance company with a retail business.

Attorney Pacione answered, yes, they can replace it with anything, for example if they lost the flower shop, with granting the special use a doctor's office or another insurance agency can move in. If you didn't grant them special use when the tax guy moves out, then it has to become retail.

Commissioner Jackson asked, right now we have professional offices in the rest of the building.

Attorney Pacione answered, as it currently exists B-1 or how it would exist under B-3.

Commissioner Jackson answered; ignore the B-1 and B-3, physically in reality, there are businesses and professional tenants in that building and they are all in the first floor, my question is when the insurance agent moves out can another insurance agency move in.

Attorney Pacione answered if you grant them a special use. If you do not grant them a special use, then another insurance agency cannot move in. Does that answer your question?

Commissioner Douglas answered I think.

Attorney Pacione added, by asking for special use the current professional office tenants can stay and if they leave, they can be replaced by the same type of tenant. If you do not grant special use, once those professionals leave, it is no longer allowed under the new B-3 zoning. They would have to come before you again if they wanted to get permission for a particular tenant.

Commissioner Jackson asked, right now there is an insurance agent.

Pamela Sarno answered, no it's a tax company.

Commissioner Jackson answered, okay, I am sorry. If he leaves what is permitted. Another tax guy or a donut shop.

Attorney Pacione answered, under the status, another tax guy can come in.

Commissioner Jackson asked, and it requires a variance to put the donut shop.

Attorney Pacione answered once you go to B-3 the new tax guy can't move in.

Commissioner Jackson added that is my question if we approve what we are asked to be approved.

Attorney Pacione answered, #1 the change in zoning, once the tax guy moves out unless you grant #2 the new tax can't come in.

Commissioner Jackson asked, but the new donut shop can.

Attorney Pacione answered, yes.

Commissioner Jackson then added, parking lots, you have the adequate number of parking spaces because you have 10 ft. long instead of 19 ft. long. You have even more than you needed if they were 2 ft. by 4 ft., going to retail, why do you come to us and say we don't want to re-stripe this to fix the current allowable size, given that we have a lot of vehicles that do not fit in the current ordinance size.

Robert Sarno answered, in the back, we have plenty of room to do that, I am not 100% sure at this time if we have the room to do that in the front. If we do, we would make that change. I'm just not clear on my measurements just yet on the front. But for the back, those measurements work.

Commissioner Jackson added, my concern particularly is when you go to a retail and perhaps a retail like this, you are going to generate more business for our police department to look at the cars that have scraped other cars because the parking spaces are too small.

Attorney Pacione added, again if you grant it would currently be non-conforming and if they would re-pave or re-strip the lot they would have to conform with the new parking conditions.

Chairman Caslin added, in the front lot, you said at the beginning of this that you were going to do the blacktop so you are going to have to re-stripe it at the same time. #1 my question is, you have two driveways, that street has become a nightmare in my estimation of people pulling in and out of there. First hand, I got nailed by somebody doing that two years ago. I prefer that

spaces around to face Summit Avenue and I think you can make more of them diagonal. I'm just voicing my opinion. #2 if you need in my opinion, to have a handicap space in the back lot as long as you have a retail entryway in that back lot. It is unfair for a handicapped person to walk all the way from the north side of the front of the building around to the back of the building to get into that retail. You may want to think about two handicap spaces.

Attorney Pacione added, the handicap accessibility code is going to regulate how many spaces they need. They need to be located close to the front of the store.

Chairman Caslin responded, I understand that but this is what I'm trying to say, he has a retail entry from the back, coming from a person that is handicap, that handicap space is critical, and when someone has to walk that distance around to get into an entry it is kind of unfair to a handicapped person.

Attorney Pacione asked Building and Zoning Administrator Mihaela if they would have to be evaluated once they are repaved.

Building and Zoning Administrator Dragan answered, yes.

Chairman Caslin added that is my only request. I would like to see some of those driveways on Summit minimized. Look at your parking situation and you might be able to get more out of it if you close one side and going diagonal. Just a thought.

Commissioner Donoval asked the petitioner, how many employees do you plan to have.

Robert Sarno responded, in the gaming.

Commissioner Donoval answered gaming and kitchen.

Robert Sarno answered, probably five.

Commissioner Donoval asked those five employees count towards the parking spaces.

Pamela Sarno answered, well not all at the same time, we won't have five employees at the same time. We would only need one or two at the same time.

Commissioner Jackson answered, okay.

Commissioner Walberg responded, for food and drinks just one employee.

Robert Sarno answered, yes only one person, the food is going to be snacks.

Commissioner Walberg asked, for the gaming, is it machines?

Robert Sarno answered, yes.

Commissioner Walberg answered, okay, thank you.

Commissioner Jackson asked, do you think you are going to have enough parking spaces for all the businesses.

Robert Sarno answered, yes.

Chairman Caslin asked, what is the occupancy of the café.

Robert Sarno answered twenty-four.

Chairman Caslin asked, what about for the gaming.

Robert Sarno answered five.

Chairman Caslin added, so approximately thirty.

Pamela Sarno added, twenty-four including the five for the gaming.

Commissioner Schneider asked Building and Zoning Administrator Dragan, I know before there has been a lot of drainage issues behind a property on Summit for some homeowners, has there been anything like that up to this point.

Building and Zoning Administrator Dragan answered I am unaware of any drainage issues at this property.

Commissioner Schneider responded, okay, and I did drive on your property and I didn't see any issues with your lot line. I am in agreement with what you are doing but I would like to see some improvements in your parking lot, this beautification of Oakbrook Terrace has to start somewhere. I am not picking on you but I feel that anytime someone on Summit comes in, beautifying the property should be on the list. So I feel I should include the parking lot being redone.

Pamela Sarno added, yes, absolutely.

Chairman Caslin asked if anyone else has any questions for them, if they do they need to stand up and get sworn in.

Mary McHugh, the property owner of 1S043-1S049 Summit Avenue was sworn in by Addy Lozano, Building and Zoning / Planning and Zoning Secretary.

Mary McHugh added, that she is there representing the property located at 1S043-1S049 Summit Avenue, not knowing what this was about, what the change from B-1 to B-3 was. Now since they're presentation, we know that the building is going to stay the same and that they are just asking for variance for the particular business. But this answered most of our questions. We just wanted to come in as neighbors to see if it was going to affect our property.

Chairman Caslin added, nothing is going to change.

Mart McHugh responded, okay, thank you.

Attorney Pacione added, at this time I just want to advise you that you do have the right to do a couple of things. You have the right to ask for a continuance to ask them to gather more information, or you have the right to make a motion of approval or deny of certain things.

Commissioner Schneider asked if it can just be put in now.

Attorney Pacione answered, as a condition or variation or as a condition of the special use. You can whether or not at that point and time they decide to accept it.

Commissioner Schneider added, I just think it may be a faster process if it was put in now versus later.

Chairman Caslin asked the petitioner if he would have a problem putting them in now.

Robert Sarno answered, I don't, however, we are working with a limited budget, so of that is going to be a big priority we might have to rethink that.

Attorney Pacione added, at that point, it would be my recommendation of they were going to be the conditions perhaps that you continue the hearing, for them to evaluate whether or not that's something they wish to do.

Robert Sarno added it's something that is in our agenda, however we need to generate more income.

Pamela Sarno asked if they could repeat the conditions.

Commissioner Schneider answered new parking lot and your husband mentioned some brickwork needed.

Chairman Caslin added, what he is worried about, and so are we, is that we grant these things and all of the sudden we get, and I don't mean to be disrespectful, but the ugly piggy is still sitting there and it has not been corrected. We would like for it to be corrected and cleaned so that perhaps the next guy that comes in does the same.

Robert Sarno answered that is our goal.

Commissioner Ventura asked, if we do not approve it, it just stays the way is non-conforming.

Commissioner Donoval added, we can put that in as a condition.

Commissioner Jackson added we could have a motion for what is being proposed, we could have an amendment, and correct me if I am wrong, to do a specific list of things. We could vote on the amendment.

Commissioner Walberg added you are asking for an approval with the conditions.

Commissioner Jackson answered I am asking for approval of the condition first.

Attorney Pacione answered, you can request a poll to see what they would be in favor as far as the condition and I would recommend making a motion for each condition.

Commissioner Schneider added I have one more thing to ask you in regards to the parking lot and beautifying it. I understand your buildout would cost you money, if these terms we would say you can do your build out and give you until next spring to do your asphalt would that work in your budget.

Robert Sarno answered; I would say a year is reasonable.

Attorney Pacione added, with the understanding that if you didn't comply your special use could be revoked.

Commissioner Schneider asked the petitioner if that is something he would be able to do.

Robert Sarno answered; I would feel more comfortable if I had until the fall.

Chairman Caslin added; let's take a poll for either spring or summer.

Commissioner Walberg, spring.

Commissioner Donoval, spring.

Commissioner Jackson, indifferent.

Commissioner Ventura, indifferent.

Chairman Caslin, spring.

Attorney Pacione added, now knowing that they recommend to be done in the spring, does that change your position on whether you'd like to proceed or not.

Robert Sarno answered, no, I would like to proceed.

MOTION Commissioner Jackson moved and Commissioner Schneider seconded to approve Case #19-02 subject to two items that were not included in the package they received. 1) The parking lot has to be re-surfaced by June 1, 2019. 2) Variance with respect to parking space size is granted only for the front of the property and not the back, which means the back parking spaces have to be in compliance. 3) Tuckpointing of all brick surfaces on the exterior of the building.

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

Ayes: Chairman Caslin, Commissioners Ventura, Jackson, Schneider, Donoval, Walberg

Nays: None

Absent: Commissioner Cardenas

MOTION PASSED WITH A 6-0 VOTE.

Building and Zoning Administrator added that the Letter of Recommendation will be placed on the June 26, 2018, City Council meeting agenda.

MOTION Commissioner Schneider moved and Commissioner Ventura seconded the motion to adjourn the meeting.

MOTION PASSED UNANIMOUSLY THROUGH A VOICE VOTE OF 6-0.

Chairman Caslin adjourned the meeting at 7:07 P.M.

Respectfully submitted by,

Addy Lozano
Building and Zoning / Planning and Zoning Secretary