

Zoning Board of Appeals

Special Meeting Minutes

Monday, February 8, 2016
7:00 p.m., Council Chambers



City of South Haven

1. Call to Order by Lewis at 7:00 p.m.

2. Roll Call

Present: Dave Paull, Tom Stegeman, Mark Wheeler, Bob McAlear
Absent: Scott Boyd, Mary Lynn Bugge, Jodi Carlson, Dave Miller

Also present: Marilyn Smith, Third Party Administrator, MSHDA
Deb Davidson, Downtown Development Director

3. Approval of Agenda

Motion by Paull, second by Wheeler to approve the February 8, 2016 Special Meeting Agenda as presented.

All in favor. Motion carried.

4. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

None at this time.

5. New Business – Public Hearing

Karyn Adler Fasel, daughter of property owner Barbara Ann Adler, is asking for relief from the off-street parking requirement for dwellings above a retail use in the CBD. The first dwelling unit does not require parking but each subsequent unit requires two (2) off-street parking spaces. The applicant plans to create two (2) residential units in the second floor of 409 Phoenix (Harbor Toys).

Anderson noted there are two parking spaces behind the store on private property; one tied to a lease for a separate building and the other space will be utilized for fire escape if the two apartments are developed. The applicant could not be here, but Deb Davidson, DDA Director, and Marilyn Smith, MSHDA, are here to answer questions.

Lewis asked why the applicant is not here to which Davidson responded that the applicant lives out of state in Pennsylvania. Anderson noted the applicant asked that Davidson and Smith be here, so they are the designated representatives.

Motion by Wheeler to open the public hearing, second by McAlear.

All in favor. Motion carried.

Deb Davidson, DDA Director; on behalf of Karen Fasel: The applicant received a MSHDA grant to develop two apartments in the upper story of 409 Phoenix Street, then it was realized that the parking spaces are tied to a lease. Davidson stated she would not make a recommendation but present the pros and cons as she sees them.

Pros: This project does support the State of Michigan's efforts to create vibrant downtowns and create a sense of place. The results are attracting a younger population to downtowns; spurring economic development and increasing activity and revenue to downtown property and business owners. Many of our buildings do have vacant upper floors; this creates a productive use of vacant space. This project supports some goals in the master plan: year round activities, better use of upper floors in the downtown, encourages downtown diversity and encourages higher density residential use in downtowns.

Cons: Will take up parking in the downtown parking lots, not so much this time of year but during summer months when parking is at a premium.

To that point Davidson noted that the DDA continues to increase the parking in the downtown and are always looking for opportunities to add parking. There are two projects to be added in the late spring; 26 to 29 additional spaces at the old Baar's site and the addition of a new parking lot on Dunkley.

Lewis asked about the square footage requirements to which Smith responded that there are requirements. These apartments will have approximately 1000 square feet and the state requires at least 700 square feet. The finished square footage will probably be around 900 square feet by the time everything is installed.

Stegeman asked about the applicant having a parking spot which is currently leased out to someone else. Davidson responded that the parking space is leased to the owner of Harbor Toys, the lessee of the retail business on the ground floor. Stegeman asked whether they have thought about breaking that lease to which Davidson responded that she has encouraged the owner to do so.

Smith said there is a broader objective and spoke about another community where the parking is difficult, noting that there was discussion that parking could possibly be a problem because they do not require any parking. Smith noted the other community has found that is not a debilitating problem; that community has ID cards that are attached to the cars so they know where those cars are parking, they do not park on the street. Smith noted that another community has a 2-hour limit on the street but they can park in any of the public lots while yet another designates parking for apartment dwellers, so there are ways to manage the parking. The purpose of the program is to provide living and working opportunities close by. But some people still drive to work, so those people, during the day, will be gone anyway. Smith admitted it is an issue you always have to take into consideration.

Lewis reiterated that the city does not have any requirement for parking for the first apartment, and asked where they would park, to which Anderson responded, "In a city lot."

McAlear pointed out that Smith addressed another city that does not have parking requirements; the state is supporting downtown apartments; the state's intention is to try to support the downtown development and create a thriving community. McAlear thinks the parking issue is totally separate; needs to be addressed, but as a separate issue. Davidson agreed that she believes the city needs to look for long term parking solutions.

Smith commented about the grant, noting that Davidson said the Chamber of Commerce coined the term "South Heaven" and noted, "I believe this is a beautiful city. This is a wonderful program that may not be duplicated after this. We don't know what the future is going to be like, but do know the façade program added value to the community. You would not have a vacancy issue; the program itself is a wonderful program that does add value to the downtown buildings but may not be replicated in the future."

Stegeman pointed out that if there were only one (1) apartment there would not be a parking issue. Smith said it might be more than the square footage required by the state but the objective is to create more parking. McAlear asked if the applicant went to the one (1) unit, would it make it too expensive. This is not low income housing; the goal is \$34,000 in an attempt to get a young person that could rent an apartment if there were an apartment available. There are varying degrees, according to McAlear, who noted that if the developer went to one unit she might price herself out of the market.

Smith noted that the requirement is to have the tenant, of low to moderate income, remain in that apartment for five (5) years. "Long term," Smith noted, "maybe it won't make any difference, because South Haven is 'South Heaven'. Financially, long term, it may not be a problem for her. But short-term it could be a problem and might not meet the state's goal."

Motion by Paull, second by Wheeler to close the public hearing.

All in favor. Motion carried.

Paull commented that at the last zoning board meeting before he voted no, he noted, "I hate voting for squirrels." Paul continued, "Ladies, your arguments are wonderful, however, this thing violates the zoning ordinance; it's asking us to set up a system by which we will exacerbate an already difficult parking problem; the problem the applicant is having is self-inflicted. If you go through the list of criteria we go through for approving or dis-approving variances that is one of the criteria. The applicant has one of the required spots; she has voluntarily taken it out of the system. As good as this plan is and as much as I applaud Karen Fasel for her efforts, it's too much, too soon. We need to solve the parking problem downtown. Sunday morning as I arrived for my weekly breakfast downtown, one of the employees at Black River Tavern showed up, he is the one who opens, and parks right in front of Black River Tavern. What would it take to make sure that spot is available for someone else to park in? We have a parking problem we need to resolve. Paull said it was discussed about hiring a consultant to do a study to help solve this. We need to solve this, before we start granting variances to parking and I will be voting no."

McAlear, agrees on the parking problem, and noted that the apartment development is a viable project. McAlear thinks they are separate issues that need to be solved separately and stated that he supports the issue.

Lewis has an issue, as he often does, with the need for a variance being self-inflicted. "Can the property be enjoyed the way it is? Yes. It can be turned into a 2,000 sq. ft. apartment that can be used and enjoyed. They do have parking as part of the deed of the property and the parking is currently leased out; that is a problem for the developer, but it is not this board's problem." Lewis stated that he is kind of with Paull on this one and does not see how he can look at the criteria and say it meets all the criteria.

Wheeler pointed out that it might be splitting hairs on self-creation, but in some zones the setbacks make it so someone can only build a tool shed or not even that on their property. "Ideally, most of the people who come in here have a self-created problem, it's just a matter of how self-created of a problem it is."

Lewis repeated that in his opinion this project does not need a variance because it can be enjoyed as a larger apartment.

Stegeman stated that he owned the building at 424 Quaker for many years, and had some lovely apartments on the top of that with our own parking alongside the building and those tenants could never park there, because somebody else would park there, and you talk about problems; this needs to be cured. Stegeman stated, "I like this program, but I've had a belly full of hearing people complain about parking problems. They have parking spot but they don't want to use that, it's a tough question."

Lewis pointed out that the ZBA is not the Planning Commission to which Wheeler commented that all the ZBA can do is acknowledge that there is a parking problem.

Paull said over the past 10 to 15 years, there have been a number of parking solutions; one you could buy into, another making more parking places, but it's been haphazard and uncoordinated and not very well enforced. Paull feels there is a need to solve the parking problem before granting variances. Lewis worries about setting a precedent noting that the next guy down the street may want three apartments.

McAlear agrees about setting a precedent but every city in the world that is growing, and South Haven is growing very rapidly, has this problem. "In order to help with that growth, we are going to say 'bye-bye' to the grant; the state has criteria; this is a huge opportunity for the downtown area." McAlear noted, "You talk about parking? Chicago, Bay City, Muskegon, you will have to find a parking place and walk. Parking is a separate issue, that's all I'm saying."

Motion by McAlear to support the variance for two parking spaces for the second residential unit at 409 Phoenix. Second by Wheeler.

A roll call vote was taken.

Ayes: Stegeman, Wheeler, McAlear

Nays: Paull, Lewis

Since four affirmative votes are required, the motion fails.

Lewis conveyed his apologies to the applicant.

6. Commissioner Comments

Lewis: Appreciate everyone coming here for the special meeting on short notice.

There were no other commissioner comments.

Anderson: We will not be having a regular meeting this month, but there may be something in March.

8. Adjourn

Motion by Paull, second by Stegeman to adjourn at 7:36 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary