

Zoning Board of Appeals

Regular Meeting Minutes

Monday, July 28, 2014
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: Bugge, Miller, Paull, Wheeler, Lewis
Absent: Boyd, Wittkop

3. Election of Officers 2014-2015

Motion by Bugge to nominate the officers (Chair: Lewis and Vice-Chair Paull) now serving.
Second by Miller.

Motion by Miller to close nominations.

All in favor. Motion carried.

By unanimous consent, officers Lewis for Chair and Paull for Vice-Chair were approved.

4. Approval of Agenda

Motion by Bugge, second by Paull to approve the July 28, 2014 regular meeting agenda as presented.

All in favor. Motion carried.

5. Approval of Minutes – March 24, 2014

Motion by Bugge, second by Wheeler to approve the March 24, 2014 regular meeting minutes as corrected:

- Page 2, top of page. Replace the word “neighbor’s” with “neighboring.”

All in favor. Motion carried.

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

None at this time.

7. New Business – PUBLIC HEARING

Goodwill Industries, Inc., is asking for three (3) variances for their proposed store located at 340 73 ½ Street. The variances would reduce the proposed side yard setback from the required 30 feet to 24 feet (south) and 20 feet (north). The applicant is also asking for a landscaping variance to reduce the front landscaping requirement from 25 feet to 10 feet. The parcel number for the subject property is 80-53-620-052-00. This application seeks variances from zoning ordinance sections 2405, 1-a, and 2406 1-a.

Bugge explained her previous working relationship with the applicant and disclaimed any current professional relationship or financial interest.

Anderson explained that the applicant was unaware of the overlay zoning and designed the project according to the underlying B-4 zone. Anderson does not have a problem with the requested variances, noting that this property does not front on Phoenix Street and explaining that the overlay zone was intended for the main corridors. The sub-committee included the entire Meijer property and those on this south side because they felt that at some time this property will all be developed. Anderson felt that was a strong mitigating circumstance and the lot is fairly narrow with an unusual configuration for what they want to do.

Anderson also noted that this application has been to Planning Commission one time. Planning Commission tabled their decision; their next meeting is a week from Thursday. “By then the applicant should have addressed all the necessary corrections and updates requested by staff and the decision of the Zoning Board of Appeals (ZBA).” Anderson assumes the board has read the findings of staff and applicant.

Motion by Paull, second by Bugge to open the public hearing.

All in favor. Motion carried.

Terry Schley, President of Schley Architects, 4200 South 9th Street, P.O. Box 9640, Kalamazoo, MI 49009 Introduced Kris Nelson, also with Schley Architects and John Dillworth, CEO of Goodwill Industries. Noted they are here to answer questions, particularly regarding anything that brought them to this point. Interprets that the overlay would appear generally intended for a different kind of outcome than where this particular site is located.

Lewis called for questions. Bugge noted on the application that on the south side the setback on the plan is thirty-two feet eight inches (32’8”) and asked where that is measured to commenting, “It is only twenty-four feet (24’).”

Chris Nelson, Schley Architects, explained that the dimension you see is the width of the driveway. The measurement is from the property line to the drop-off structure. Bugge noted that a variance is not required on that side to which Nelson agreed.

Bugge asked about the “garage.” Nelson explained that it is a covered drop-off with garage doors on each end so people can drop off donations without actually coming inside the

building. Bugge asked for the size of that area and why it is that wide. Nelson said it is designed for two (2) vehicles. Bugge stated that the garage could be only one car wide and allow the overall building to be narrower. Schley explained, "The reality is we are trying to receive donations and it is frequently the case that someone pulls up and there is quite a bit of activity; the area around the vehicles is needed to get people out of both sides of the car; get things out of the back seat of the car; get things out through the trunk and from attached additional vehicles."

Dillworth: The dimensions for donation drive-through are based on the way Goodwill stores in Minneapolis/St. Paul takes donations. "With the garage doors closed in the winter people could come and donate merchandise without having to feel the full brunt of the wind off of Lake Michigan. This is the way this is done with all Goodwill stores in Minneapolis/St. Paul."

Bugge requested the gross floor area of the store noting that zoning is only concerned with the usable floor area. Nelson responded that the usable floor area is around 5400 square feet.

Bugge noted that the overlay zone only requires one (1) parking space for each 200 square feet of usable floor area so your required spaces would be twenty-seven and you are providing fifty (50) spaces. Lewis asked what the requirement would be for the B-4 zoning district and it was determined that it would be thirty-six (36). In response to a query by Bugge asking if/why the applicants are asking to increase the required parking spaces, Schley responded that at certain times, such as Super Saturdays, the extra parking space is needed. "The client recognizes that rather than having inadequate parking it would be better to have more parking, based on their knowledge of other facilities throughout the region."

Bugge asked about the lot having deeded access to the lot to the west and whether it also has a parking easement? Schley responded, "No, not to our knowledge."

Bugge noted that on the drawing it indicates, in relationship to the request for landscaping reduction, ten feet (10') to that one parking space there. One of your drawings shows a thirty foot (30') building setback, but there is not a line for twenty-five feet (25'); "Can you estimate about where a twenty-five (25') line would be on the newer drawing?" Discussion ensued regarding how many parking spaces would be eliminated if the front yard variance was not approved. Nelson noted that the landscaping required would take out about four (4) to five (5) spaces.

Motion by Paull, second by Miller to close the public hearing.
All in favor. Motion carried.

Lewis called for discussion from the board.

Bugge commented that this is a first property coming in under this ordinance and explained that she was on the committee that drafted this ordinance. "We looked very carefully at the properties, determining that currently it certainly does not speak well of the city when you come into the city; the whole intent was to upgrade the image of the city, provide consistency and add landscaping. That was to bring in a unified appearance and improve the whole area." Personally, Bugge feels this property was intended to be included with this overlay". Bugge noted that was her feeling and asked if Lewis will be going through the criteria.

Lewis enumerated the standards that must be met:

1. Such variance will not be detrimental to adjacent property and the surrounding neighborhood.

Personally, Lewis said he does not believe such variance to be detrimental. Paull noted that the variances are fairly minimal and it seems to him that it is not going to impact the surrounding retail businesses negatively.

2. Such variance will not impair the intent and purpose of this Ordinance.

Bugge expressed her belief that the requested variance is against the intent of the overlay district; although right now it may not be detrimental to adjacent properties, in the future it will be under a lesser standard than adjacent properties. "Someone always has to be the first one to come in under a new ordinance," according to Bugge.

3. Exceptional or extraordinary circumstances or conditions apply to the property in question or to the intended use of the property that do not apply generally to other properties in the same zoning district. Such circumstances shall create a practical difficulty because of unique circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property. See Section 2204(2).

Bugge does not think this property has any exceptional circumstances. It is a good property for a use that designs its building to fit the property. The only thing exceptional might be the curvature on the front of the lot.

Lewis said it is unique in his view because it fronts on 73 ½ Street and not Phoenix. Paull noted the intent was to beautify along the front of properties of the entrance corridors; this property is on the back which makes it not as vital to the beautification. Paull noted this property comes close with the design, but it is not perfect. Lewis added that if everything was perfect we would not be here.

4. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

Bugge said it (the property) is usable for the intended use, maybe not for this width of building.

5. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

Lewis said, "Obviously not."

6. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, shall not be the result of actions of the property owner. In other words, the problem shall not be self-created.

Lewis commented, "I always have problems with this one." Bugge noted that if you want to go by the landscaping, perhaps you could say it is not self-created. "More parking spaces than required by the ordinance are a self-created situation and the width of the building and the garage are causing the problem. There are a lot of options."

7. That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using property for a permitted purpose, or would render conformity unnecessarily burdensome.

Bugge doesn't think so.

8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.

Bugge said a different size building or a different number of parking spaces could mitigate the problem.

9. That the variance will relate only to property under the control of the applicant.

All agreed this was the case.

Wheeler asked, "Can we consider the two issues separately?" to which Lewis responded yes.

Paull would like to ask the applicant and owner if they would like to speak to this: "If we (the board) would deny the landscaping variance, how many parking spaces would you have?" Discussion ensued between Lewis, Bugge and the applicants as they looked at the plan. The applicants determined that they could meet the landscaping setback and still have forty-four (44) spaces.

Bugge commented, "If they wanted to look at the width of the drive-through . . . " when Paull interjected that he will fight that one, asking, "Can you imagine having to unload a piece of furniture in a twelve foot (12') wide space?" Wheeler noted that people could get injured; cars could get scratched and dinged, and so on.

Dillworth: "You have to have space on all sides of a vehicle to unload things. In the winter in South Haven we expect this to be an issue. The specifications used are exactly what they do in Minneapolis/St. Paul." Dillworth noted that they do not anticipate cars side by side in the garage space, only one car at a time.

Miller stated he doesn't feel qualified to determine what is burdensome and what is not for the people of Goodwill to function; he would depend on them to know what they need and it would be in their best interest to do it correctly. Miller is hesitant to question the size of the off-loading area, based on their experience. Lewis noted that it is the board's job to listen to all the facts and make our best judgment, commenting, "That is why we gather information."

Miller pointed out that it is unfortunate the applicants did not have the overlay information when they were putting the plan together. "That is not their fault, and on that basis, to not offer any kind of a variance. . . "As Miller looks at it, the requests before the board are, for future generations, not going to be about the nuances of landscaping and parking places. Miller would like future generations to think the officials at the time permitted it and it is in the best interest of the community as opposed to defining down to the last inch what is in the applicants' best interest.

Lewis wondered if this property were not in the overlay, to which Paull responded, "We wouldn't be here." Lewis hates to second guess the Planning Commission pointing out that the overlay's intent was to beautify Phoenix Street. Bugge clarified that it was the whole area. Paull noted that we have one piece of this, being essentially removed from that consideration, and looked at uniquely. "It nearly fits; it has a couple of glitches, not major, not going to stick out like sore thumbs, won't make development around it any harder or easier, for that matter. It will still be the only property in there with landscaping"

Motion by Paull that the north side yard variance of ten feet (10') be approved because it won't mess up the value of the property or mess up the neighbors. Second by Miller.

Lewis called for discussion. Hearing none a roll call vote was taken:

Yeas: Miller, Paull, Wheeler, Lewis
Nays: Bugge

Motion by Bugge deny the landscaping variance because the reduction of parking spaces will still give them excess spaces beyond the requirement. With no support the motion dies.

Motion by Paull, second by Miller to grant the landscaping variance.

Bugge asked if she can amend that motion. ~~Lewis Bugge~~ reminded her *the Board* that the variance carries on the property not on the development. Paull agreed to hear the proposed amendment. Bugge asked that ~~a condition an amendment be placed on~~ *added to the approval variance that landscaping the width of the landscaped area shall not be reduced beyond what is shown on the site plan.* After some discussion, Paull ~~agreed~~ *seconded* the amendment.

Lewis called the vote on amendment.

All in favor. Motion carried.

A roll call vote was taken on the variance for front landscaping.

Yeas: Miller, Paull, Wheeler, Bugge, Lewis
Nays: None

Motion carried.

8. Other Business

Lewis asked if we have any business floating out there. Anderson said there have been some calls and inquiries; people seem to be waiting until after summer. No applications or requests have been received.

9. Member Comments

There were none.

8. Adjourn

Motion by Bugge, second by Miller to adjourn at 8:52 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary