

Planning Commission

Regular Meeting Minutes Thursday, October 3, 2013 7:00 p.m., Council Chambers



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

2. Roll Call

Present: Frost, Heinig, Peterson, Smith, Wall, Webb
Absent: Miles

Motion by Heinig, second by Wall to excuse Miles.

All in favor. Motion carried.

3. Approval of Agenda

Motion by Smith, second by Heinig to approve the agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – September 5, 2013

Motion by Wall, second by Smith to approve the September 5, 2013 regular Meeting Minutes as written.

All in favor. Motion carried.

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

None at this time.

6. New Business

A. PUBLIC HEARING – Special Use Permit Request 1068 Monroe Blvd.

Vlietstra Brothers Pools, Inc., representing John and Rita Sexton of 1068 Monroe Blvd, South Haven, MI, requests a special use permit to construct an in ground swimming pool at the above address on Monroe Boulevard. Swimming pools on

waterfront properties require a special use permit according to zoning ordinance section 1725-2d.

Anderson reviewed the request, noting that she walked the site, observed a solidly built seawall on a bluff that is well vegetated. Anderson informed that she sent the request to the Department of Environmental Quality (DEQ) which had no problem with the request. In light of concerns offered by the neighbors in three (3) letters and the location of pool, Anderson suggested the board might want to make an approval contingent on an engineering study by the applicant.

Motion by Wall, second by Heinig to open the public hearing.

All in favor. Motion carried.

Paull asked if there was anyone in the audience who wanted to speak to this issue. Seeing none, Paull requested a motion to close the public hearing.

Wall stated that she received a phone call from a neighbor who is in Europe and could not be at this meeting. The neighbor had concerns regarding water runoff and because of that Wall agrees with having an engineer look at it.

Motion by Smith, Second by Wall to close the public hearing.

All in favor. Motion carried.

B. Discussion and Recommendation: Proposed Variance

Paull pointed out that an engineering study could be included in the motion if the pool request is approved.

Smith questioned whether concerns about the fence placement and easement have been addressed and whether it is standard practice to require an engineering study. Anderson explained she always sends such requests to the Department of Environmental Quality (DEQ). Smith questioned whether a house would be worse than a pool in regards to issues with the bluff. Anderson noted that with a house, the city required sealed drawings by an engineer or architect. Regarding the fence placement concern of the neighbors, Anderson stated that the city acts in good faith with the application and does not require surveys; if there is a fence or easement issue, neighbors have to settle that as a civil matter.

Peterson went to the property yesterday and noted that the fence did not seem to be a problem; he feels that the applicant has addressed the run off problems and agrees that an engineering study would be good.

Wall asked about how to prevent overflow. Anderson said it is violation of the state law to allow run off from one property to another; however, it is the property owner's responsibility to be sure that drainage does not run onto a neighbor's property.

Ron Vlietstra, Owner, Vlietstra Brothers Pool Company. Stated that the company has been in business for over forty (40) years and that he has been an owner for twenty-one (21) years. Vlietstra Brothers has installed many pools along the waters' edge from

New Buffalo north including ten (10) in South Haven and has never had an issue. Vlietstra noted that this area is fortunate in that there is quite a rigid clay bank along the lakeshore all the way up to Glenn which runs on an angle and stabilizes that area quite well. Vlietstra pointed out that he put a pool in the Pinnacles which is seventy-five (75) feet up and twenty-five (25) feet in from the bluff in the High Banks.

Regarding this application, Vlietstra stated that he contacted the Department of Environmental Quality (DEQ), which issued him a five (5) page questionnaire to fill out. Of that, only one question applied to this pool, and that required him to go to the Van Buren County Drain Commission, which is the State of Michigan designated agency for the "Soil Erosion and Sedimentation Control" permit office. That office reviewed the request and issued a permit. Vlietstra noted that he is working in conjunction with DeBest on this project and commended the quality of DeBest's work.

Vlietstra commented that "except for the Planning Commission granting me a Special Use Permit so I can pull a Building Permit, we are ready to go."

Vlietstra also commented on the water drainage issue, noting that when the Sextons bought the property they were concerned with water draining toward the bank so that has already been alleviated and the goal for Vlietstra Pools is to contain all drainage within the property. Vlietstra's plans are to do the same thing he did on two (2) pools his firm installed on Monroe Boulevard recently; he put in boring drains that are extremely effective.

Paull reminded that one of the concerns is the runoff onto neighbor's property. Vlietstra explained that the pool will be a completely enclosed self-contained system and all water will be held on the property and will not drain on anyone else's property.

Webb requested clarification regarding the questionnaire from the Department of Environmental Quality (DEQ). Anderson explained that the questionnaire led the applicant to the Soil Erosion and Sedimentation Control permit from the Van Buren County Drain Commission.

Vlietstra added that his firm has never had a violation or citation.

Smith stated that he is familiar with some of the pools Vlietstra mentioned, that he can confirm the quality of DeBest's work and questioned whether an engineer brought in to study the proposed plan will know more than Vlietstra Brothers have with their experience up and down the lakeshore.

Motion by Smith, second by Wall to approve the special use permit to construct an in ground swimming pool at 1068 Monroe Boulevard.

All in favor. Motion carried.

C. Discussion of B-3 Zoning District Regulations

Paull explained that the B-3 Zoning District was created a decade or so ago, based on a former ordinance's marina district and pieces of a zoning code adopted from another community, which he noted has worked reasonably well up until recently. Currently

nearly all the property left to be developed in the B-3 zone does not fit into the B-3 category.

Anderson said she has had requests for single family homes in the B-3 Zoning District for properties that are not suitable for much except a single family home. B-3 allows Planned Unit Developments (PUDs) and some businesses such as restaurants. In talking to others around the city, trying to determine why the zone restricts the construction of single family home, Anderson stated that she has never been able to find out. Anderson reviewed Planning Commission minutes from the time but never found reference to a discussion on why the zone was structured as it is.

Anderson's recommendation is for the Commission to consider amending the zoning ordinance to allow single family homes in the B-3 district; people own lots in that zone and cannot do much with them.

Another issue that Anderson pointed out is the area in the B-3 zone that should be looked at is where Old Harbor Village/Inn is located along Williams Street. Anderson stated that here has been discussion since she has been employed by the city of making that area part of the Central Business District (CBD). Strong features that point to that change are that Old Harbor Village/Inn has the same characteristics as the CBD, being in the CBD gives the area more options for uses and the CBD does not have the same parking requirements as the B-3 zone. B-3 requires that a business provide a certain number of parking spaces on the same property and that cannot happen in that location.

Anderson talked to the Downtown Development Authority (DDA) Director, Deb Davidson, to see if she had any issues with such a zoning change and Davidson thinks it is a good idea. Now that the city is more developed, there may be some other changes that need to be made to the text of the ordinance in the section about the B-3 zone, that were not addressed at the time it was implemented.

Anderson would like to receive the Planning Commission's permission to look at some of these issues; put together a subcommittee; drive and walk the area; look at permits that have been issued in the area and report back to the Commission.

Smith asked for clarification that Anderson is only asking to add something, not to change the Planned Unit Development (PUD) requirements or remove any allowed uses from the B-3 Zone. Anderson responded that she has no problem with what is allowed but with what is not allowed; adding single family residences as a permitted use is a simple adjustment and would be a way to allow a use for the owners of some of those lots in the B-3 zone.

Peterson asked for an example of one of those lots in the B-3 zone that could be used for a single family home if the use was added to the ordinance. Anderson responded, "Three Pelicans," and added that she has had inquiries about that property, which cannot accommodate a business use due to the parking requirement, but could be a good location for a single family home.

Paull said if the commissioners have consensus, he will have Anderson explore this and report back to the commission. All members recommended staff begin the study.

7. Old Business

A. Request Concerning Overlay Zoning

Paull noted that this item is regarding the overlay zoning in a written communication we received prior to the public comment at the September 5, 2013 regular planning commission meeting requesting one piece of property be removed from the overlay zone.

Anderson noted that the resident feels that this property, zoned B-1, should not remain in the overlay zone because inclusion might encourage expansion of the use in the future. Anderson feels this is not a good precedent to set, once one property is removed from the overlay zone, other businesses may want that use that as a way to opt out.

As noted in the staff report, Anderson pointed out that this request is being brought to the commission due to staff omission; she really wanted to have the proposed Overlay Zoning to City Council by now.

Heinig commented that the reasons given to take it out are the very reasons it should not be taken out.

By consensus, the board determined that no property should be taken out of the proposed overlay zone.

8. Commissioner Comments

There were none.

9. Adjourn

Motion by Wall, second by Smith to adjourn at 7:29 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary