

The Board of Zoning Appeals meeting was called to order by Chair Lambert at 7:30 p.m. on December 21, 2010, in the Council Chamber of the Troy City Hall.

1. ROLL CALL

Present:

Michael Bartnik
Glenn Clark
Kenneth Courtney
Donald L. Edmunds
William Fisher
A. Allen Kneale
David Lambert

Also Present:

Paul Evans, Zoning and Compliance Specialist
Christopher Forsyth, Assistant City Attorney
Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF MINUTES

Resolution # BZA 2010-12-056

Moved by Clark
Seconded by Fisher

MOVED, To approve the November 16, 2010 Regular meeting minutes as printed.

Yes: All present (7)

MOTION CARRIED

3. HEARING OF CASES

A. **VARIANCE REQUEST, CAMELIA SANDULACHE, 405 E. MAPLE** – In order to enlarge the existing building proposed to be used as a dental office: 1) A 16 foot variance from the required 20 foot side yard (east yard) setback, 2) An 11 foot variance from the required 30 foot yard front yard (west yard) setback, and 3) A 10 foot variance from the requirement that the proposed handicapped ramp be set back 20 feet from the west property line.

ORDINANCE SECTIONS: 1) and 2) 30.20.01, 3) 41.45.00

Mr. Evans addressed the three setback variances individually with respect to location and zoning of adjacent properties. Mr. Evans said the item went before the Planning Commission at their November meeting, at which time no action was taken because the item required variances. Mr. Evans displayed the renderings provided by the applicant.

Arthur Kalajian, project architect, of 1871 Austin Drive, Troy, was present to represent the petitioner. Mr. Kalajian addressed the following:

- Nature, position and configuration of the site.
- Existing building square footage, grade level and dual frontage of corner lot.
- Building renovation and floor layout.
- ADA regulated ramp and access.
- Lighting.
- Zoning Ordinance requirements relating to parking, landscaping and stormwater.

Mr. Kalajian addressed concerns expressed by the neighboring property located at 415 E. Maple, relating to parking, traffic and trash removal. Mr. Kalajian said there would be minimal impact on the neighboring property with respect to parking. He said there is no shared parking agreement with the neighbor. Mr. Kalajian proposes to place a demountable precast curb in the parking area to impede cars from crossing onto the neighboring property. Mr. Kalajian said trash would be placed in a covered container behind a gate and removed on a weekly basis for curb pickup.

Petitioner Camelia Sandulache of 36669 Waltham Drive, Sterling Heights, was present. Dr. Sandulache said there would be four employees. She estimated the total number of people in the facility at any given time would be eight, four employees and four patients.

Mr. Bartnik complimented the architect on the aesthetics and location of the barrier free ramp.

Mr. Forsyth said the Board can consider the potential parking concern as far as practical difficulty is concerned and the impact it might have on the adjoining property.

PUBLIC HEARING OPENED

Richard Taubman of 32255 Northwestern Highway, Farmington Hills, was present to represent Dr. Sklar, the neighboring property located at 415 E. Maple. He addressed the size of the property in relation to its proposed use, the rectangular shape and non-uniqueness of the property, and the existing site and no variances sought at the time Dr. Sklar's facility was constructed. Mr. Taubman said the increase in traffic and overflow parking would impact his client. Mr. Taubman referred to Section 43.73.00 of the Zoning Ordinance that addresses expansion of nonconforming uses or structures. He asked that the Board deny the variance request, and to the extent that should a variance be granted, that the Board grant the minimum variance necessary to relieve the hardship, as stipulated in Section 43.73.00.

A short discussion followed on:

- Nonconforming structures.
- Rear property line in relation to 415 E. Maple.
- Lack of landscaping to screen parking lot view from 415 E. Maple.
- Parking lot design.

Mr. Forsyth stated the Board should make its decision based on the presentations provided tonight by both the petitioner and the adjacent neighbor at 415 E. Maple.

Alexandru Derecichei of Century 21 Realtors, 4820 Rochester Road, Troy, was present. Mr. Derecichei asked the Board to grant the request because the proposed use would positively impact the neighborhood and the City.

Chair Lambert noted there is no written correspondence on file.

PUBLIC HEARING CLOSED

Discussion followed on:

- Proposed parking; the proposal meets Zoning Ordinance requirements.
- Planning Consultant report; Site Access and Circulation – “The site will be accessed from two proposed entrances; one on Kirkton Avenue and a second, which will access the existing parking area for the adjacent office property to the east and north. This configuration is acceptable and provides adequate access to the small parking area in a challenging space.” The Board noted the current proposal would not provide for access to the adjacent office property without modifications to the adjacent office property’s sidewalk.

Resolution # BZA 2010-12-057

Moved by Bartnik

Seconded by Kneale

MOVED, To grant requested variances.

Preliminary Findings:

- The variances are not contrary to public interest.
- The variances do not permit the establishment of a prohibited use within a zoning district.
- The variances do not cause an adverse effect to properties in the immediate vicinity or zoning district.
- The variances relate only to property described in the application for variance.

Special Findings:

- Conforming is unnecessarily burdensome. Variances are not excessive.
- The practical difficulties result from the unusual characteristics of the property including (1) size; (2) location and (3) configuration. The 60’ x 122’ corner lot of a standard rectangular configuration is difficult or impossible for the petitioner to make any reasonable use of the premises.

Discussion on the motion on the floor.

Chair Lambert expressed concern to support the motion because the one variance relates to the potential impact on the neighboring property located at 415 E. Maple.

Mr. Courtney expressed concern with the proposed parking and the extension of a nonconforming building. He would prefer to table the item.

Mr. Clark expressed concern with the extension of a nonconforming building and the potential impacts on 415 E. Maple and residential characteristics of the neighborhood. He would prefer to table the item.

Mr. Bartnik expounded on the reasons to grant the variances. He addressed the surrounding zoning and uses and practical difficulties in relation to the configuration of the property. Mr. Bartnik stated the construction of any commercial building on this site would require approval of variances. He believes there would be minimal impact on the doctor's property.

Discussion continued on:

- Site design.
- Floor design in relation to barrier free ramp.
- Landscaping.
- Parking layout/design.

Resolution # BZA 2010-12-058

Moved by Bartnik

Seconded by Clark

MOVED, To postpone the item to the January 18, 2011 Regular Meeting to provide the petitioner an opportunity to meet with the neighbor and come back to the Board with amenable revisions.

Yes: All present (7)

MOTION CARRIED

It was requested of the petitioner to address the proposed demountable precast curb in the parking lot area with the Planning Department and to research whether a cross access easement currently exists on the site.

5. **COMMUNICATIONS**

None.

6. PUBLIC COMMENT

There was no one present who wished to speak.

7. MISCELLANEOUS BUSINESS

A. APPROVAL OF PROPOSED 2011 BOARD OF ZONING APPEALS MEETING SCHEDULE

The 2011 Board of Zoning Appeals meeting schedule was reviewed and acknowledged by Board.

B. POLICY ON EXCUSING ABSENT MEMBERS

Mr. Evans introduced the item. He said there appears to be no legal requirement that absent members must be excused from attendance of a meeting, and asked the Board to consider removing that item from future agendas.

After a short discussion, it was the consensus of the Board to postpone this matter to the next meeting.

Chair Lambert asked that the item be placed on the January 18, 2011 agenda under Miscellaneous Business.

8. ADJOURNMENT

The Board of Zoning Appeals meeting adjourned at 8:56 p.m.

Respectfully submitted,



David Lambert, Chair



Kathy L. Czarniecki, Recording Secretary