

**ZONING BOARD OF APPEALS
MEETING MINUTES
December 23, 2015
CITY COUNCIL CHAMBER
7:00 P.M.**

1. CALL TO ORDER

The meeting was called to order at 7:15 p.m.

II. ROLL CALL

Present: J. Bailey, R. Johnson, T. Roach, J. Albers, E. Syemour

Absent: T. Roach (excused)

Staff: B. Wessler, Planner II
N. Schuette, Executive Secretary
J. Meyers, Community Development Director
C. Kochanek, Planner I

III. APPROVAL OF MINUTES

Commissioner Albers moved to approve the minutes of September 30, 2015 (Support: R. Johnson) and the motion carried unanimously.

IV. PURPOSE OF MEETING

Chairman Bailey stated the purpose of the meeting, which is to discuss two variance requests.

V. OLD BUSINESS

None

VI. NEW BUSINESS

1. 1420 Washtenaw – Rear Setback Variance

Bonnie Wessler, Planner, stated that this was a gas station and auto repair and that the owner is currently in the process of submitting for approval for an expansion of the convenience store use, removing the auto repair use, and are asking for a variance from the rear yard setback so they can expand the building 6' to the north. The required setback in that area is 25' from property line because it is adjacent to R1. They are pretty constrained

to the south because of the gas pumps, however, they can and plan to expand the building to the west.

Ms. Wessler reviewed all the standards pertaining to granting a variance. Staff believes the practical difficulty standard is met and was not created by the current owner; the building is non-conforming and other buildings in the district are similarly non-conforming. The granting of the variance will likely not be detrimental to the public welfare and they will be reducing the amount of alley access thereby reducing cut-through traffic and the rear of the building will not have any windows, therefore, no screening will be necessary. The major reason for the applicant adding the square footage to the north is due to a technicality of their liquor license requiring a different inventory mix in the building. Staff is recommending a smaller variance than requested would be reasonable and recommending that the Zoning Board of Appeals grant a variance of only 6.13' to the property line.

Commissioner Johnson asked if it is staff's position that the northern boundary remain the same making it legally non-conforming but running of the business will not be critically affected by not moving 6' north. Ms. Wessler concurred.

Commissioner Johnson moved to open the public portion of the hearing (Support: E. Seymour) and the motion carried unanimously.

Todd Ballou, 3300 Berry Road, Ypsilanti – architect for the project – confirmed that they are requesting only one variance which was agreed to by Ms. Wessler. The building is totally going the opposite way of the zoning ordinance. The zoning ordinance wants it to be much closer to the street with all the parking in the back, hence all the problems. Since staff has made a proposal to change the variance he deferred any further comments to the owner.

Ali Wahab, 1401 Campus, Dearborn, owner of the property and applicant of the variance request – wants the 6' in the back because the width of the current building is very narrow thereby making the aisles very narrow because of the size of the coolers and is hoping to expand the width for that reason. The Liquor Code says that 50' is the required distance from the pump to the register – he is not sure how that is defined yet but the 6' will help getting his liquor license and that is the reason they are asking for the 6'.

Commissioner Albers moved to close the public portion of the hearing (Support: E. Seymour) and the motion carried unanimously.

Some discussion was held by board members on the distance of the cash register to the pumps adding that they were not aware of the 50' distance required by the Liquor Commission and would have liked to see something in writing pertaining to that. They recalled the applicant who explained that he also had not been aware of the 50' requirement of the distance between the nearest fuel pumps and the register at the time, requiring the cash register to be located against the back wall and needing the 6' to meet the 50' requirement. The State requires that all pumps be visible from the cash register.

Ms. Wessler read the article pertaining to the 50' from the website of the Liquor Commission confirming this requirement.

Commissioner Bailey stated that abutting so close to a residential district was a concern to him. Further discussion was held on the proximity of the register to the pump.

Commissioner Johnson asked if a conditional variance was possible because of Liquor Control guidelines and Ms. Wessler responded that she recommended instead that the board consider tabling this item giving the applicant the opportunity to prove that the requirements of the Liquor Control Commission can be met.

Commissioner Seymour moved to table this item until we have enough information that the 50' requirement can be met and a friendly amendment by Commissioner Johnson requiring some plans with measurements that would indicate where the cash register and liquor would be in compliance with the pumps and guidelines by the state. The motion was supported by Commissioner Albers and carried unanimously.

2. Corner Brewery, 720 Norris Street – Variance

C. Kochanek, Planner I, stated that is a request for approval of a variance to allow an accessory structure to be built over the allowed 15 ft. height limit.

The property is approximately 1.72 acres, fronting on Norris St. There is an existing 11,00-s.f. foot building, including the pre-manufactured storage structure with an outdoor beer garden of 3,528 s.f. The property was previously granted variances in 2005 for the beer garden to exceed the maximum of 20% of the gross indoor floor area and to allow for few off-street parking spaces than required. Special permits were issued in 2005 and 2011 for the use as a microbrewery and a later expansion. The kitchen was expanded in 2014.

The property is zoning NC Neighborhood Corridor, which allows for a microbrewery in less than 16,000 s.f. as a permitted use, and a bar as a special use. An accessory structure is allowed at a maximum height of 15 feet for the Large Single Story Commercial Building type. The applicant is seeking a variance to install an elevated grain hopper near the southeast corner of the building that will reach a height of approximately 32 feet above ground. With the principal structure fronting on Norris St, the proposed accessory structure will be located in the street side yard.

Ms. Kochanek reviewed the standards for variances, after which, she stated that staff recommended approval noting the findings.

Commissioner Johnson moved to open the public portion of the hearing (Support: E. Seymour) and the motion carried unanimously

Matt Greff, 1305 Grant – owner of the business – stated that this request for a variance was a crucial step in maintaining his business. He detailed the necessity of this silo that holds 50,000 lbs of grain and explained in detail how it works and the reason for the 32 ft. Chairman Bailey asked if he could use two smaller silos and Mr. Greff responded that it is possible but would take up more parking spaces out of the requirement that is already required. The reason for the location is due to the need of proximity to the brewery. He has also been working with the Fire Department to ensure that they have taken all steps necessary to be safe. Commissioner Johnson asked if he had explored other options in order to expand, to which Mr. Greff responded in the affirmative. Commissioner Johnson also asked if Mr. Greff foresees installation of another silo and Mr. Greff responded that he did not.

Chuck Hookhan, Engineer of the project, 2902 Eisenhower, Ann Arbor – was in attendance to respond to any concerns by the board that was put forth. He added that both he and Mr. Greff had tried various scenarios to make this proposal work.

Cecilia Hoeft, 713 N. River – stated that her house is located directly behind the brewery. She produced pictures of the storage area from her back door. She stated her yard is no longer pleasurable for her. She had previously asked if they would paint the storage building that was the last variance they were granted or plant trees to create a buffer but had been told that there was not enough room at the back and feels that the last variance negatively affected her home and enjoyment of her back yard. She asked about a potential noise issue with the grain elevator. Mr. Greff responded to the noise issue and explained that there would be no noise involved in the operation of the elevator.

James Moore, 726 Norris – asked about installation of a fence on his property to which Ms. Kochanek responded that his property would not be affected by the request of the silo. Chairman Bailey informed Mr. Moore that this meeting was to deal with the silo at the Corner Brewery only.

Chuck Hookhan, engineer – was recalled to address concerns by Ms. Hoeft regarding any noise associated with the loading of the grain elevator. He stated that conveyor will be inside the building directly into the brewery and the loading of the grain will be done via a truck by vacuum. The delivery would be less frequent than previously done thereby reducing truck traffic. Instead of 1-2 deliveries per week, it would now be every 6-8 weeks. Regarding painting of the silo, Mr. Greff stated that he had discussed this with the Historic District Commission and it was their opinion that it would be better to leave as the natural finish rather than the possibility of peeling, etc. They also have approved the design with no paint. Commissioner Johnson asked about fumes to which Mr. Greff responded that there would be fumes involved and would be non-intrusive.

Commissioner Seymour moved to close the public portion of the hearing (Support: J. Albers) and the motion carried unanimously.

After some discussion by board members, Commissioner Johnson moved that the Zoning Board of Appeals approve the variance request to permit an accessory structure 32 feet in height in the south side yard at 720 Norris St in excess of the 15 feet height requirement, as submitted on November 23, 2015, with the following findings:

1. The applicant has shown sufficient practical difficulty under Sec. 122-94(b)(1).
2. The granting of this variance should not be detrimental to public welfare or injurious to the neighborhood, per Sec 122-94(b)(4).
3. the allowance of the variance will result in substantial justice being done, given the conditions spelled out in Sec 122-94(b)(5).

The motion was supported by Commissioner Seymour and carried unanimously.

3. Approval of 2016 Schedule

Commissioner Albers moved to approve the 2016 Meeting Schedule (Support: R. Johnson) and the motion carried unanimously.

4. Ms. Wessler informed the board that there would be a regular meeting on January 20th and a combined training meeting with the Planning Commission on January 27th.

VII. ADJOURNMENT

Since there was no further business, Commissioner Albers moved to adjourn the meeting (Support: E. Seymour) and the motion carried unanimously. The meeting adjourned at 8:20 p.m.