

1. Zoning Board Of Appeals Meeting Agenda

Documents:

[01- ZBA AGENDA 7-26-17.PDF](#)

2. Zoning Board Of Appeals Meeting Packet

Documents:

[7-26-17 ZBA MEETING PACKET.PDF](#)

Agenda
Zoning Board of Appeals
Council Chambers
Wednesday, July 26, 2017 - 7:00 P.M.

I. Call to Order

II. Roll Call

Jake Albers, Chair	P	A
Cisco Garcia, Vice Chair	P	A
Heather Khan	P	A
Jennifer Symanns	P	A
Jared Talaga	P	A
 John Bailey	 P	 A
Tom Roach	P	A

III. Approval of Minutes

- June 28, 2017

IV. Purpose of Meeting

V. Old Business

- None

VI. New Business

- Interpretation for Parking Requirement in Center District
Public Hearing

VII. Adjournment

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**ZONING BOARD OF APPEALS
MEETING MINUTES
June 28, 2017
CITY COUNCIL CHAMBER
7:00 P.M.**

1. CALL TO ORDER

The meeting was called to order at 7:00 pm.

II. ROLL CALL

Present: J. Bailey, J. Albers, J. Talaga, C. Garcia

Absent: H. Khan (excused) T. Roach (excused)

Staff: B. Wessler, City Planner
N. Schuette, Executive Secretary

Chairman Bailey welcomed a new member, Jennifer Symanns, to the board.

III. APPROVAL OF MINUTES

Commissioner Albers moved to approve the minutes of October 26, 2017 (Support: G. Garcia) and the motion carried unanimously.

IV. PURPOSE OF MEETING

Chairman Bailey stated the purpose of the meeting.

V. OLD BUSINESS

None

VI. NEW BUSINESS

1. Chairman Bailey moved to appoint Commissioner Albers to the Chair (Support G. Garcia) and the motion carried unanimously. Commissioner Bailey moved to appoint Commission Garcia as Vice-Chair (Support: J. Albers) and the motion carried unanimously.

2. Variance Request for parking - 400 N. River

City Planner, Bonnie Wessler, presented the staff report on this variance request stating that the applicant is requesting a parking variance from the 244 required per ordinance. The property is a corner lot to the northeast of the intersection of N. River and E. Cross, 0.47 acres with frontage on N. River. There is an existing 12,000 sq. ft. partial structure on site. A fire in 2009 gutted most of the commercial structure and it has sat vacant since that time. The lot to the east, formerly 107. E. Cross, held a house that was torn down after a structure fire. This lot was combined with 400 N. River in 2015 and was rezoned to Center in 2016, which allowed the vacant area of this lot to be able to serve the structure. This parcel was previously part of an active Planned Unit Development (PUD) project but has been inactive for some time and has since expired.

The applicant is proposing a mixed use for the building. The ground floor will be a bar and a sit-down restaurant with 20 apartments on the upper floors. Zoned C-Center, permits by right, a bar/lounge, sit-down restaurant and apartments located above the ground floor of permitted residential uses.

The applicant is requesting a variance from the amount of parking required on site. Twenty-three spaces are proposed for the parking lot to the east of structure, including one ADA compliant space.

Ms. Wessler reviewed the standards for variances noting that practical difficulty is found for additional parking on the site due to the existing historic structure occupying more than half the available area on the site; the variance is necessary for preservation of property enjoyed by other property owners in the same district; most restaurants in the Center district, including the Downtown and Depot Town areas do not have sufficient parking per the standards of Sec 122-836; alleged practical difficulties have not been created by any person presently having an interest in the property; granting of the variance will not be detrimental to the public welfare and the development of this property will have a positive impact to the neighborhood. The allowance of the variance will result in substantial justice being done, considering the other restaurants that exist in the Center district with little or no parking.

Staff recommends the Zoning Board of Appeals approve the variance request to permit less parking than required at 400 N. River as submitted on the March 21, 2017 plans, with findings as listed.

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

Robert Wagner – Midwest Consulting, 3815 Plaza Drive, Ann Arbor – was in attendance representing the applicant. Mr. Wagner stated that they had received approval for this project from the Planning Department. They did the calculations on the 20 apartments and commercial. While he noted that the requirements were for 244 parking spaces, they can only fit 23, which included a

barrier-free space on River at the northwest corner of the site, hence the need for the variance. The owner is not providing spaces for employees, however, he will offer them bus passes if required but otherwise they would have to use public parking, i.e. Maple Street.

Sam Jones-Darling, EMU Campus apartments – Is in favor of this project, however, he is asking about the possibility of having the bus stop moved closer for residents. He also feels that the developer should increase parking for disability – not sufficient. Supports the variance request but would like it contingent on increase parking for disability.

Tom Tipley, 213 E. Cross – supports the project. There is always parking at Frog Island – feels this is an important project for the vitality of the Depot Town area – referred to the opening of Cultivate and the number of people it brings to Depot Town.

Michael Gelletly, 921 Sheridan – owns house next door to Thompson Block. He likes the drawing of the proposed project. There is not enough parking in the area. He is happy they have residential parking but there are three more houses on that block, which means 11 more units, each with a car each who also need to park. The first block of N. River might have to be made residential parking in time. Has no problem with handicapped space. He has no problem with the bus stop.

Ms. Gelletly, 921 Sheridan – her building is right next to Thompson Block and does not have any parking – the resident is using the end of the closed alley, and anyone else has to park on the street.

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

Commissioner Albers asked staff where the nearest bus stop was located in relation to the building, to which Ms. Wessler responded that it was located across the tracks east of Aubrees. Commissioner Symanns asked the number of proposed employees. Mr. Wagner responded that he did not have that information. Chairman Bailey asked the number of businesses to be located on the property, to which Mr. Wagner responded that there will be two businesses. Commissioner Talaga recommended that sometime in the future a traffic study should be considered. Ms. Wessler responded that currently parking in Depot Town is free and not time limited but agreed that a study is warranted and is something that will be considered in the future. Chairman Bailey asked the proposed opening date of the businesses and Mr. Wagner responded that they will be starting in August of this year and plan to open sometime in 2018. Commissioner Symanns suggested the possibility of some kind of signage showing the various parking areas

Commissioner Albers moved that the Zoning Board of Appeals approve the variance request to permit less parking than required at 400 N. River as submitted on the March 21, 2017 plans, with the following findings:

1. The applicant has shown sufficient practical difficulty under Sec 122-94(b)(1).
2. Such a variance is necessary for the preservation and enjoyment of a substantial property right enjoyed by other property owners in the same district under the terms of the zoning ordinance, per the standards of Sec 122-94(2).
3. The practical difficulty being proposed is not self-created, per Sec 122-94(3).
4. the granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located, per Sec 122-94(4).
5. The allowance of the variance will result in substantial justice being done, given the conditions spelled out in Sec 122-94(b)(5).
6. Denial of this variance will hinder the applicant's ability to develop the site.

VII. ADJOURNMENT

Since there was no further business, Commissioner Albers moved to adjourn the meeting (Support: J. Symanns and the motion carried unanimously).

The meeting adjourned at 7:48 p.m.



20 July 2017

**Staff Request for Ordinance Interpretation
Parking Requirements in the Center District**

GENERAL INFORMATION

Applicant: Planning & Development Department Staff

Action Requested: Staff requests that the Zoning Board of Appeals make a determination regarding the plain language of 122-681(c).

BACKGROUND AND DISCUSSION

The current zoning districts and land use philosophies of the City of Ypsilanti are largely split into two categories: neighborhoods that are considered “walkable,” and generally developed before the widespread adoption of the automobile, and those considered auto-centric, largely developed after. Some zoning districts are not currently fully walkable, but are intended to become more so over time, such as General Corridor and Neighborhood Corridor. The currently-walkable districts, such as CN, CN-Mid, CN-SF, Center, and Historic Corridor were generally fully developed before the automobile, and as such have very little in the way of private parking facilities. The Center and Historic Corridor districts rely largely upon provision of public parking facilities and public infrastructure investments, including surface lots and on-street parking for cars; but also alternate modes such as bus transit facilities; public and private bicycle parking; and a complete sidewalk network. These alternate facilities allow for people to travel to these areas without using a personal vehicle, and without the City or private businesses setting aside significant amounts of land for the temporary storage of personal vehicles.

Most communities' parking standards are based on the Institute of Transportation Engineers' standards, developed decades ago. These standards generally assume all trips are made by personal vehicle, which often results in parking areas that far outstrip the area they are intended to serve. Ypsilanti's standards are still based on these standards, although they have been modified over the years to allow fewer parking spaces than the ITE recommends.

In 1974, Ypsilanti required quite a bit more parking than we do currently, and had a “Parking” zoning district, presumably specifically to appeal to and accommodate automobile use. By 1998, however, the ordinance contained language similar to what's in our current ordinance:

- (3) **Areas Excepted.** The provisions of this Article shall not apply to uses and structures in the B3 Central Business District, except those spaces required for dwellings. A fee in lieu of providing off-street parking for apartment units above ground floor commercial uses in the B3 zoning district is permitted in accordance with Section 5.227.

In 2003, the language was still there:

- (3) *Areas excepted.* The provisions of this article shall not apply to uses and structures in the B3 central business district, except those spaces required for dwellings. A fee in lieu of providing off-street parking for apartment units above ground floor commercial uses in the B3 zoning district is permitted in accordance with section 122-841.

And remained in 2009:

- (3)*Areas excepted.* The provisions of this article shall not apply to uses and structures in the B3 central business district, except those spaces required for dwellings. A fee in lieu of providing off-street parking for apartment units above ground floor commercial uses in the B3 zoning district is permitted in accordance with section 122-841.

It was changed very slightly in the 2015 ordinance (changes underlined):

- (3)*Areas excepted.* The provisions of this article shall not apply to uses and structures in the C zoning district, except those spaces required for upper-story dwellings. A fee in lieu of providing off-street parking for upper-story units in the C zoning district is permitted in accordance with section 122-843.

And again in the latest revision (effective 4/20/2017), with the intent to broaden and strengthen the exemptions:

- (c) *Areas excepted.* The provisions of this section regarding quantity of spaces provided shall not apply to uses in the Center District or existing commercial uses in the Historic Corridor zoning districts, except those spaces required for upper-story dwellings. A fee in lieu of providing off-street parking for upper-story units in the Center or Historic Corridor is permitted in accordance with §122-697.

When I began reviewing plans in 2010, it was taught to me that changes of use in the then-B3 district were not required to do a site plan, because no changes to parking were required. However, it was practice at the time to require parking were there an addition proposed for the site- essentially, if the site required a site plan for another reason, such as new construction or an addition, then parking requirements were triggered. This continued to be the established practice. Due to the lack of development in the B3/Center district, this issue rarely came up, and no evidence exists in the files to document when it began or why it began. It is only with the recent development pressure that this matter is being scrutinized.

This parking requirement presents a distinct disincentive to those who wish to build, expand, or significantly rehabilitate in the Downtown, Depot Town, or West Cross districts, as the Zoning Board of Appeals saw before it in June. The 400 N River/Thompson Block project applied for, and received, a variance for more than 220 parking spaces for a restaurant area of less than 10,000 square feet. This volume of parking spaces would have taken up more than 36,000 square feet (0.85 of an acre), exclusive of turning/maneuvering lanes- effectively requiring more than three and a half times more space be devoted to vehicle storage than to active use that generates social and economic activity. This practice presents a significant threat to the vitality of our historic core commercial districts.

The broader, updated language of the 2015 edition of the zoning code allows us to definitively, and with documentation, revisit the past practice, and pursue correct action going forward.

Figure 1: Briarwood Mall: highlighted area is approximately 1.3 acres of parking containing approximately 100 parking spaces.



Figure 2: Depot Town. Highlighted area is same area at same scale of highlighted area in Figure 1. 400 N River is red crosshatched within the larger blue crosshatched area.



ZONING BOARD OF APPEALS AUTHORITY

§122-396

Section 122-92 of the Zoning Ordinance states that the Zoning Board of Appeals shall hear questions relating to whether Zoning Ordinance language is unclear.

Sec. 122-396. Powers and duties.

(a) The board of appeals shall hear and decide all questions and decisions regarding the following:

(2) The interpretation of the language of this chapter when its meaning is unclear, or when there is uncertainty as to whether the language applies to a particular situation.

STAFF RECOMMENDATION

Staff recommends that the Zoning Board of Appeals find that in the case of interpreting the language of 122-681(c), the language be interpreted as written; to-wit, no parking requirement shall accrue to uses in the Center District, with the exception of upper-story residential units, which shall be eligible to pay a fee to the City in lieu of providing parking, with the findings that:

- The ordinance is clearly written; and
- The effect of the ordinance as written protects the historic character and walkability of Downtown, Depot Town, West Cross, and encourages walkability and density in other areas zoned Center District;

Bonnie Wessler
City Planner, Community & Economic Development Division

c.c. File
 Applicant