Zoning Board of Appeals

November 13, 2024

A regular meeting of the Zoning Board of Appeals was held at City Hall, 200 South Main Street, Eaton Rapids, on November 13, 2024 at 7:00 pm.

Chair Hetzer called the meeting to order at 7:00 pm. Present were Chair Hetzer, Secretary Baker, members Lehto and Kopak. Vice Chair Miller, member Williams and member Freer were absent and excused.

Also present at the meeting was City Building Official LeRoy Hummel and Financial Specialist Leigh Tyler.

Lehto moved, Baker seconded, PASSED to approve the agenda as printed

Baker moved, Lehto seconded, PASSED to approve the June 12, 2024 meeting minutes as printed

Public Comment was opened at 7:02 pm and closed at 7:03 pm as there was none

Public Hearing: 1401 South Main Street, Eaton Rapids, MI – Review application for variance submitted by Andres Benkovsky (Moo-Ville). Requesting a variance for Article XXI – Parking, Loading and Access Management, sec 21.35 Loading Space Requirements, D. Location – Loading spaces shall not be provided in the front yard. Article XVII – Schedule of Regulations, sec 17.20 Mixed Use and Nonresidential Districts, Mixed Use District requires a 10' front yard setback. The property owner is requesting to construct a loading dock in the NW front yard.

Chair Hetzer opened the Public Hearing at 7:03 pm

Andrew Benkovsky from Moo-Ville was unable to attend, so his representative Doug Westendorf is speaking for him. Mr. Westendorf states that in their business, they use a piece of equipment known as a Bossy. Their Bossy carries an average of 3500 crates through the ER location on a daily basis. A loading dock is needed to use this piece of equipment instead of using the door that the public and the employees use to enter and exit the building.

Building Inspector Hummel states that per our zoning ordinance, loading docks are not allowed on the front of buildings. He states that Moo-Ville wants to unload trucks more efficiently. Because they technically have 2 front yards, the loading dock would encroach 5' into the 10' front yard on Marilin setback. Moo-Ville is asking for approval for the dock to encroach 5' into the setback as well.

ARTICLE 19 – Design Standards – Inspector Hummel quoted the Ordinances and suggested considerations so that what they build does not necessarily look like a loading dock i.e....with landscaping, a wall to hide it etc.

Secretary Baker moved that we adjourn the Public Hearing to discuss the variance. Member Lehto seconded. The public hearing was adjourned at 7:08 pm

Building Inspector Hummel reminded the board that with tonight's limited attendance, any motion would need 3 out of 4 votes to pass.

VARIANCES:

In hearing and deciding appeals for variances, the board shall adhere to the following criteria in determining whether or not practical difficulties and/or unnecessary hardships exist:

1. That if the property owner complies with this ordinance, he or she can secure no reasonable return from or make no reasonable use f his or her property

ANSWER: Board answers yes but there are safety concerns for the public and it would create a hardship but it is possible.

2. That the hardship results from the application of this Ordinance to his or her property, rather than from other source

ANSWER: Board answers yes

3. That the hardship of which her or she complains is suffered merely by his or her property directly and not by others

ANSWER: The board answers yes and they are not aware of any other properties involved

4. That the hardship is not a result or his or her own actions

ANSWER: The board answers yes, the property is preexisting and unique

5. That the hardship is peculiar to the property of the applicant

ANSWER: Board answers yes, the property is preexisting and unique and the dock cannot be put to the back of the building.

STANDARDS FOR JUDGING APPEALS AND VARIANCES:

A. A practical difficulty and/or unnecessary hardship exists according to the standards of this Article

ANSWER: Board answers yes because this building was built before the current ordinance was written.

B. The proposed variation involves exceptional circumstances not found in other areas of the same zoning district

ANSWER: Board answers yes because of the uniqueness of the property.

C. The proposed variation will be in harmony with the general purposes and intent of this ordinance

ANSWER: The Board answers yes, as long as the loading dock adheres to design standards of Article 19

D. The proposed variation will not in any respect impair the public health, safety or comfort, or welfare of the inhabitants of the city

ANSWER: The Board answers yes

E. The proposed use will be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood

ANSWER: The Board answers yes

F. The proposed use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the distance involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic with particular attention to minimizing child vehicle contact

ANSWER: The Board answers yes and that this building has already been approved as a drive through

G. The location, size, intensity, site layout and periods of operation of such proposed use will be designed to eliminate any possible nuisances emanating therefrom, which nuisance might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.

ANSWER: The Board answers yes

H. The location and height of buildings or structures and the location, nature, and height of walls and fences will be such that the proposed use will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

ANSWER: The Board answers NO it will not interfere or discourage the appropriate development and use if adjacent land and buildings or unreasonably affect their value.

Secretary Baker made a motion that the loading dock ramp at 1401 South Main Street, Eaton Rapids be approved based on the criteria set forth in Section 25:50. Construction must conform to the current ordinance for design standards because the building was built before the ordinance went into effect. The existing trees on the property cannot be impacted by the construction and Building Official Hummel must approve the plan before the construction is started. Member Kopak seconded. The motion passed

Secretary Baker made a second motion that the requested variance for the 5' encroachment on the offset back be approved per the zoning ordinance and have all the requirements as the same variance in Motion 1. Member Kopak seconded. The motion passed.

REPORTS

OLD BUSINESS: NONE

NEW BUSINESS: NONE

PLANNING COMMISSION: Secretary Baker stated that the July, August and October meetings were focused mainly on the swimming pool at 920 West Street (Eaton Pines) and the proposed apartments being planned at 400 Dexter.

BUILDING INSPECTOR: LeRoy Hummel reports that City Councilman Ken Nicholas will be attending the ZBA meetings going forward. He stated that the Horner Mill property should be managed by the Eaton

County Land Bank by the end of the year. He stated that Allen Edwin Homes is building 14 new homes in Eaton Rapids, 5 of those are already sold.

The meeting was adjourned at 8:41 pm.

Leigh A. Tyler

Financial Specialist

City of Eaton Rapids