



MEETING MINUTES

LAND USE COMMISSION

Wednesday, October 26, 2022

7:00 PM

Lorraine H. Morton Civic Center, 2100 Ridge Avenue, James C. Lytle City Council Chambers

Members Present: George Halik, John Hewko, Brian Johnson, Jeanne Lindwall, Kiril Mirintchev, Max Puchtel, Kristine Westerberg, Matt Rodgers

Members Absent: Myrna Arevalo and Violetta Cullen

Staff Present: Katie Ashbaugh, Planner; Sarah Flax, Interim Community Development Director; Melissa Klotz, Zoning Administrator; and Brian George, Assistant City Attorney

Presiding Member: Matt Rodgers

Call to Order

Chair Rodgers opened the meeting at 7:07pm. A roll call was then done and a quorum was determined to be present.

Approval of October 12, 2022 Meeting Minutes

Commissioner Lindwall then made a motion to approve the Land Use Commission meeting minutes from October 12, 2022. Seconded by Commissioner Halik. Commissioner Westerberg abstained as she was absent. A voice vote was taken, and the motion passed, 7-0.

New Business

A. Public Hearing: Major Variation | 2125 Madison Place | 22ZMJV-0081

Theodore and Nicole Fancher, property owners, request a Major Variation from Section 6-8-3-7(A)(2) of the Evanston Zoning Code to allow a street side yard of 6 feet 6 inches where a street side yard of 15 feet for an addition to an existing single-family home in the R2 Single-Family Residential District. The Land Use Commission is the determining body for this case in accordance with Section 6-3-8-10 of the Evanston Zoning Code and Ordinance 92-O-21. PIN: 10-24-306-025-0000.

Commissioner Questions

Commissioner Westerberg asked for confirmation that the new living space adds space to the living room, a porch, and a new bedroom. The applicant confirmed these features also include a new bathroom.

The record was then closed.

Deliberations

The Commission then reviewed the Standards for Variations (Section 6-3-8-12-E), found the request met the standards, and made the following findings of fact:

1. The building addition will continue along the existing setback line, there has been no comments from neighbors and so it is determined that the variation will not have an adverse impact on adjoining properties.
2. The variation allows for an existing structure to be maintained and improved which is a purpose for a variance and thus the standard is met.
3. Setbacks for properties that are on street side yards often do not conform to the existing zoning code. The setback violation already occurs on this property. The requested variation continues the existing condition and does not have a drastic impact on the property.
4. If the full street side yard setback was enforced, the resulting footprint would be a stacked living space. There has been no negative complaint about the existing condition and thus the standard is met.
5. There is no testimony by the applicant of an intent to rent or to sell. The variation makes an existing small house more usable for today's families and thus the standard is met.
6. The setback condition has existed seemingly prior to the applicant's owning the property and thus the standard is met.
7. Strict enforcement of the rules will create less usable space for the home and the applicant is not seeking an egregious addition and so the standard is met.

Commissioner Lindwall made a motion to grant a Major Variation at 2125 Madison Place, 22ZMJV-0081, to allow a street side yard of 6 feet 6 inches where a street side yard of 15 feet for an addition to an existing single-family home in the R2 Single-Family Residential District with no conditions. Second by Commissioner Westerberg. A voice vote was taken, and the motion carried, 8-0.

B. Public Hearing: Amendment to an Existing Variation Condition | 3101 Central Street | 22ZMJV-0076

Lakeside Auto Rebuilders Inc. submits for major zoning relief to amend an existing Major Variation condition required by Ord. 105-O-19, Ord. 27-O-87, and Covenant 87-359274 that requires termination of use upon transfer of ownership of the property for the legally nonconforming use of an Automobile Repair Service Establishment and Auto Body Repair Establishment where said uses are not eligible permitted or special uses in the R4 General Residential District (Section 6-8-5-2 & 6-8-5-3) or an eligible Active Ground Floor Use in the oCSC

Central Street Overlay District (Section 6-15-14-7). The Land Use Commission makes a recommendation to the City Council, the determining body for this case, in accordance with Section 6-3-8-10 of the Evanston Zoning Code and Ordinance

Zoning Administrator Melissa Klotz confirmed that an automobile repair service establishment is a legally nonconforming use and the Zoning Board of Appeals granted a request to expand the use in 2019. She clarified that the request this evening is regarding a specific condition within the previous variation ordinance.

The applicant, Sarkis Tokat, was represented by Christopher Canning, 1000 Skokie Blvd. in Wilmette. Mr. Canning summarized that the applicant seeks to remove the condition that terminates the operation of the business upon transfer of ownership beyond the Tokat family.

Commissioner Questions

Commissioner Johnson asked what is triggering the current request. Mr. Canning responded that it was due to the family's succession planning.

Commissioner Halik asked if the transfer to a particular individual could be removed but to maintain that if the property transferred to a new owner, the use would be brought back before the Land Use Commission. Mr. Canning responded that the applicant would prefer if a new owner was going to operate the business in the exact same way it operates today, they would like the ability to transfer that use. Commissioner Halik asked staff if there were any other uses where a change in ownership required review by the Land Use Commission. Ms. Klotz confirmed that special uses do not need to be brought back before the commission for transfer of ownership, but they do need to be brought back before the commission if the impact of the use changes. She stated that they could add conditions about the current operations and if a new owner does not want to follow those conditions, it may increase the impact, triggering the new owner to come before the Land Use Commission.

Commissioner Westerberg asked staff if conditions A through G would transfer with the new owner and Ms. Klotz confirmed yes. Commissioner Westerberg asked if the city had any concerns continuing approval of the property's legal nonconforming use. Ms. Klotz responded that the city would not anticipate a successful change of use at the property since the soil is likely contaminated from the past gas station use. Due to the nature of the surrounding residential neighborhood, a condition requiring "by appointment only" similar to the current operations at the property could be considered at the discretion of the commission.

Commissioner Hewko asked why the variations in 1987 were placed on the property. Mr. Tokat responded that at the time he was seeking to add a spray booth. He thought if the land was in the family, they could run the business.

In summation, Mr. Canning thanked the commission and asked for a positive recommendation to the City Council granting the amendment to the variation so that the family can continue their succession planning.

Chair Rodgers asked staff if they have received any complaints regarding this business and if there were concerns voiced to the Zoning Board of Appeals in 2019. Ms. Klotz responded that the zoning office had not received any complaints in at least 10 years and that there was substantial public support for the 2019 zoning case.

The record was then closed.

Deliberations

Commissioner Lindwall stated that removing the condition of ownership transfer does not seem to have an adverse impact on the neighborhood if the current level of operations is maintained.

The Commission then reviewed the Standards for Variations (Section 6-3-8-12-E), found the request met the standards, and made the following findings of fact:

1. The business has been in operation for decades and no one has come to speak against the request, therefore the standard is met.
2. Legal nonconforming uses are allowed to persist in the city. The business has been operating in such a manner for several decades and does not go against the current zoning ordinance and therefore the standard is met.
3. A hardship has been created on the property by the condition naming individuals.
4. Testimony has been provided that the business operations would cease if something happened to the current owner which would place hardship on the employees and therefore the standard is met.
5. Testimony has been provided that there are no plans to sell the property at this time and the plan is to continue to operate the property with the son managing the business and thus the standard is met.
6. The city has created the hardship for the owners and the standard is met.
7. Planning for the succession of the business is a minimal change and therefore the standard is met.

Commissioner Westerberg suggested that a condition be added that requires any new owner to continue the by appointment only operations to protect their residential neighbors.

Commissioner Westerberg made a motion to recommend approval of the request to amend the existing Major Variation condition required by Ord. 105-O-19, Ord. 27-O-87, that required the termination of use once the current owner ceased to operate the business, by removing condition (F) and adding one condition: that any new ownership agrees to continue operating by appointment only or seek an amendment to the approving ordinance. Second by Commissioner Lindwall. A roll call vote was taken, and the motion carried, 8-0.

C. Public Hearing: Major Adjustment to a Planned Development | 1012-1016 Church Street | 22PLND-0077

Janet Mullet, applicant, Northlight Theatre, submits for a major adjustment to the planned development approved by Ordinance 114-O-19, in the D3 Downtown District. The applicant is requesting to modify the approved building elevations. The Land Use Commission makes a recommendation to the City Council, the determining body for this case, in accordance with Section 6-3-6-12 of the Evanston Zoning Code and Ordinance 92-O-21. PIN: 11-18-302-006-0000

Tim Evans, Executive Director of the Northlight Theatre introduced Janet Mullet, Managing Director and Project Manager for 1012-1016 Church Street, and stated that they are seeking a modification to the north façade of the building. Craig Smith, the architect from Eckenhoff Saunders, noted that the cost impact of supply chain issues especially for glass resulted in the proposed modification from a glass curtain wall to a gridded aluminum and glass wall using frit glass to prevent bird collisions.

Commissioner Questions

Commissioner Halik asked staff for clarification regarding minor changes. Ms. Klotz responded that the text amendment regarding major and minor adjustments has not yet gone before the City Council. If approved by City Council, minor changes would go to Planning & Development Committee and then City Council. Commissioner Halik asked the applicant if any other interior or exterior alternatives were considered. Mr. Evans responded that Northlight did go through a value engineering process, implemented various changes, and the new industrial Midwest design for the façade was preferred.

Commissioner Westerberg asked if staff has the assistance they need for approved projects that later request substantive changes. Ms. Klotz responded that as part of the building permit process, the project would go before the Design and Project Review Committee for review of the approved materials. She also briefed that expansion of the Design and Project Review Committee oversight is currently being discussed.

Commissioner Hewko asked what the building delay would be to comply with the original glass curtain wall. Mr. Evans responded that it's not a currently favorable fundraising environment and doesn't know if they could get the original proposed glass.

Commissioner Westerberg asked how the new proposed design relates to the streetscape. Mr. Evans responded that it relates to the library and the Fountain Square building.

Chair Rogers asked if there was a percentage change in the amount of glass. Mr. Smith responded that the dimensions horizontally and vertically are the same.

Mr. Evans noted that he brought this to the attention of city staff as soon as they started considering changes to the façade.

The record was then closed.

Deliberations

Commissioner Johnson stated that he preferred the original approved design.

Commissioner Halik appreciated that Northlight had notified city staff and went through a value engineering process. He thought that the original design was more interesting but was excited to have Northlight come downtown.

Commissioner Puchtel did not think that the design was an egregious change, and the request does not affect any of the previously granted variances.

Commissioner Lindwall thought the proposed design works well with the building across the street and appreciated Northlight coming quickly forward to notify the commission of the requested change.

Commissioner Hewko supported the requested change understanding that these are unusual economic times.

Commissioner Mirintchev preferred the original design but prefers having the theater downtown and appreciates the value engineering that Northlight has done.

Commissioner Westerberg also noted that she preferred the original design however the city wants the project.

Chair Rodgers noted that the proposed façade change maintains the same amount of glass and it is nicely designed.

The Commission then reviewed the Standards for a Planned Development (Section 6-3-6-9).

- A. There are no changes in site allowances, so the standard is met.
- B. The design fits within the character of the neighborhood and thus the standard is met.
- C. No new site circulation is being proposed and therefore the standard status has not changed since the original 2019 approval.
- D. The proposed change is not a climate and sustainability goal however it uses bird-friendly glass.
- E. Site development allowances have not changed but the commission has discussed the public benefits of bringing the theater to the city and thus the standard is met.

The Commission then reviewed the Standards for Special Uses (Section 6-3-5-10).

- A. A theater is permitted in the downtown core area, and it was approved in 2019 so the standard is met.

- B. The comprehensive general plan encourages arts and theater in the downtown and thus the standard is met.
- C. No negative cumulative effect upon the neighborhood is caused by the proposed façade change.
- D. The proposed change does not interfere with the value of property in the neighborhood but in fact improves the area with an active use.
- E. The proposed change does not impact any public facilities.
- F. The proposed change does not affect traffic.
- G. There is no architectural or historical significance in the area so the standard is met.
- H. There are no significant environmental features impacted and the project includes bird-friendly glass.
- I. It is anticipated that the applicant will comply with all city regulations and has demonstrated a commitment to that by proactively bringing this requested change before the commission.

Commissioner Puchtel asked to add a condition having the new material comply with the city's bird friendly ordinance.

Commissioner Halik made a motion to recommend approval of a Major Adjustment to a Planned Development, 1012-1016 Church Street, 22PLND-0077 with a condition that the new material comply with the city's bird friendly ordinance to the Planning & Development Committee of the City Council. Second by Commissioner Mirintchev. A roll call vote was taken, and the motion carried, 8-0.

D. Public Hearing: Appeal | 2012 Maple Avenue | 22ZMJV-0075

Marcin Kawa, contractor, appeals the Zoning Administrator's decision to deny minor zoning relief (case number 22ZMNV-0059) to construct a 2-car detached garage with proposed building lot coverage of 43.8% where a maximum 40% is permitted (Section 6-8-6-6) and impervious surface coverage of 57.4% where a maximum 55% is permitted (Section 6-8-6-9) in the R4a General Residential District. The appellant was denied zoning relief to construct a 2-car detached garage. The Land Use Commission is the determining body for this case in accordance with Section 6-3-8-8 of the Evanston Zoning Code and Ordinance 92-O-21. PIN: 11-18-102-027-0000

Steven Peck, counsel, introduced the appellant Marcin Kawa, Walter Otinchinsky, Construction Project Manager, and Jason O'Bierne real estate broker. He reviewed the project history and stated that Mr. O'Bierne could provide testimony that it would be difficult to sell the new single-family residence with only a one-car garage. He showed that several homes on the alley have two-car garages. The proposed project would fit within the character of the neighborhood and encourage off-street parking.

Commissioner Questions

Chair Rodgers asked for confirmation that they have begun construction on the house but not the garage. Mr. Peck confirmed yes. Chair Rodgers asked about the

permeability of the soil. Mr. Peck noted that the intent was to say that the existing soil on the lot was permeable.

Commissioner Lindwall asked about the sequence of activities and why the house was not reduced in size to allow for a two-car garage. Mr. Kawa responded that the demolition permit was very quick, but the new permit was delayed. Ms. Ashbaugh responded that the lot coverage requirements were explained to the appellant and that they needed to reduce the house footprint to have a two-car garage or keep the current house footprint and have a one-car garage. Mr. O'Bierne noted that the house was designed within the character of modern house buyers. The house is 2,165 square feet above grade. Mr. O'Bierne reviewed market studies in the last 10 years for new construction homes and found 94 of 95 homes were built with two-car garages. Chair Rodgers asked if any of the studies were on substandard lots and Mr. O'Bierne did not know. Chair Rodgers asked for confirmation if Mr. O'Bierne originally recommended a two-car garage and Mr. Bierne confirmed that he did. Chair Rodgers inquired as to the average sale price for a comparable home and Mr. O'Bierne responded that the prices are falling but he anticipated \$800,000-900,000.

Commissioner Mirintchev inquired as to whether the architect was advised to look at options to meet the lot coverage requirements. Commissioner Mirintchev suggested architectural modifications such as reducing sidewalks from 3 feet to 2 feet 6 inches or reducing the front porch as strategies to make up for the lot coverage required for a two-car garage. The applicant's construction project manager noted that the front porch was already built.

Ms. Klotz confirmed multiple City staff advised the applicant to revise the original proposal to include a garage by reducing the footprint of the house.

The record was then closed.

Deliberations

Commissioner Halik noted that the appellant seems to have disregarded the advice of staff. Commissioner Lindwall concurred. Chair Rodgers thought it was problematic to have the project nearly completed and now consider a grant variation. The Chair noted that other substandard lots in Evanston have been successfully built upon.

The Commission then reviewed the Standards for Minor Variations (Section 6-3-8-12-A).

- A. The practical difficulty must not be self-created and in this case, it is. Therefore this standard is not met.
- B. Adjoining properties have a mix of garage types in the alley which reduces on-street parking meeting the standard.
- C. The maximization of the building footprint creates the problem, and in this case, the comprehensive general plan standard is not met.
- D. The standard for preservation does not apply.

- E. The appellant moved forward with much of the project and is now requesting a variation and therefore the standard is not met.

Commissioner Lindwall made a motion to grant the appellant's request to overturn the Zoning Administrator's determination to deny the Minor Variation filed for 2012 Maple Avenue, to deny minor zoning relief to construct a 2-car detached garage, 22ZMJV-0075. Second by Commissioner Westerberg. A roll call vote was taken, and the motion failed, 8-0. The Zoning Administrator's determination to deny the originally requested Minor Variations stands.

Communications

Planner Katie Ashbaugh noted that there will be a meeting on Wednesday, November 9th, to consider a parking variation for the adaptive reuse of the Masonic Temple for apartments on Maple Avenue, a major sign variation for an office building on Orrington Avenue, and a Special Use for a convenience store on Howard Street.

It was noted that the regular meeting scheduled for November 23, 2022 has been moved to November 30, 2022, due to the Thanksgiving holiday.

Adjournment

Commissioner Lindwall motioned to adjourn, Commissioner Westerberg seconded, and the motion carried, 8-0.

Adjourned 9:19 pm

Respectfully submitted,
Amy Ahner, Planning Consultant

Reviewed by,
Katie Ashbaugh, AICP, Planner