

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, OCTOBER 27, 2014

PRESENT: Mmes. Maddox; Messrs. Courtney, Saylor and Wilson of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Diatta, Ms. Lane and Ms. Howard of the Department of Safety and Inspections.

ABSENT: Gloria Bogen*, Daniel Ward*

*Excused

Alternate not available.

The meeting was chaired by Joyce Maddox, Chair.

Rafic Chechouri (#14-332913) 945 Grand Avenue : Variances of the setback and off-street parking requirements in order to enlarge an existing retail store. 1) A front yard setback of 25 feet is required; a zero foot setback is proposed, for a front yard setback variance of 25 feet. 2) A 4 foot setback is required from side property lines; the addition would be in line with the building on both sides but the existing setback is 3.5 feet from the west property line for a variance of .5 feet. 3) The existing use requires 5 off-street parking spaces but only 3 spaces are available; the use in the proposed expanded building requires 7 off-street parking spaces for a variance request of the difference in parking between the existing use and the proposed use which is 2 parking spaces.

Mr. Diatta showed slides of the site and reviewed the staff report with a recommendation based on findings 1, 3 and 4, staff recommends denial of the setback variance request. Staff further recommends denial of the parking variance request based on findings 1, 2, 4 and 6.

Two letters were received from property owners at 940 and 952 Grand Avenue supporting the variance request.

No correspondence was received from District 16 regarding the variance request.

The applicant **RAFIC CHECHOURI**, 945 Grand Avenue, was present. Mr. Chechouri gave a history of Gerber Jewelers in St. Paul and the reason for their location on Grand Avenue. He stated that they are not located 3 feet above street level they are 8 feet above street level, which makes it more difficult if they are trying to build a ramp. He contended that it is impossible to create a ramp to go up to 8 feet within 25 feet. Mr. Chechouri stated that he would like to withdraw the variance for setback from the north property line. He stated that he does not think that they need that variance and if they do he will just move the building back, however, he thinks that they have enough room without the variance. Mr. Chechouri stated that the reason they are trying to build a ramp is for handicapped accessibility, he has a lot of elderly handicapped customers that do not want to park in the parking lot in the back, but in front on the street. It is very difficult to go up eight feet of stairs especially in the winter time. He contended that the neighboring building was built right up to the sidewalk and that obscures his building. Mr. Chechouri stated that they spend \$10,000 a month in advertizing his customers that come in tell him that they missed the building and are having difficulty finding the location of the business. He continued that they also want to expand, they have been in the business for 130 years and it is time to expand this family business. He contended if they wait to expand they will probably have to move their location again. Mr. Chechouri stated that they are in the Jewelry business and they will not build a box store, they will create a building that is elegant.

Mr. Chechouri explained the design of the proposed building. The store will be a one story building built

28

of brick and people entering the building will be on the sidewalk level not above it. This will be connected with the basement of the building and the whole upstairs will be residential. He stated that they have plenty of off-street parking available for the proposed building contending that the business part of the building is only 1300 square feet on the outside and once the walls, recesses and doors are in the floor area will be down to less than 1200 square feet which requires three off-street parking spaces. He stated for the living space they need another one and a half parking spaces, the parking area left is twenty three feet by nineteen feet and there is also a garage on the property that his son parks in. Mr. Chechouri presented photos to the Board showing that coming from the east, his business cannot be seen by traffic. He continued that they are hoping to get the variance to allow them to build a new building so they can hire three more people for their business. This building will allow them to expand and stay in St. Paul and compete with larger stores. He contended that they are a St. Paul Company and want to remain in St. Paul.

Ms. Maddox asked if Mr. Chechouri has family living in the building now. Mr. Chechouri replied that his son lives there now. Ms. Maddox asked if they rent out part of the building. Mr. Chechouri replied no, only his son lives upstairs for security reasons. Ms. Maddox asked about the other five employees and where they park. Mr. Chechouri replied that they have two employees that do work for him at a different location. The only ones that live in the store are his wife, adult son and himself. He has another son that lives in Minneapolis and they have a shop over there where they do manufacturing. Most of their employees do not work at the actual store and do not need parking there. He stated that he is the one that transports things around between the two stores. Ms. Maddox stated the current business will become residential and what is being built will be commercial. Mr. Chechouri stated that what they are building will be the showroom; the basement will be the office, and the repair room and the safe room. Ms. Maddox commented that when she went by the property she also missed his property. Mr. Chechouri and Ms. Maddox discussed that the neighboring buildings are chocking them off from the street view coming from the east or west on Grand Avenue. Mr. Chechouri stated that his surrounding business neighbors are very supportive of his variance request.

There was no opposition present at the hearing.

Hearing no further testimony, Ms. Maddox closed the public portion of the meeting.

Mr. Courtney stated that he is struggling with the 25 foot setback that goes to zero feet. The argument from staff is that the houses were there and on Grand Avenue the City wanted to keep the appearance of businesses being run out of houses. That is exactly what would be changing here even though the rendition provided by the applicant still looks like a house. He continued that he is struggling to see if the findings are met, 25 feet is alot. He stated that most of the reasons given by the applicant are business reasons not real estate reasons. Ms. Maddox stated that if the other building was not there she would not be considering granting this.

Mr. Courtney and Mr. Diatta discussed that the neighboring building to the west is a B2 zone. The neighborhood has a mixed commercial and residential uses. It is a different zoning classification from the applicant's property.

Mr. Saylor asked Mr. Diatta about how old the zoning classification for the building is. Mr. Diatta stated to his knowledge the neighboring was always commercial. He continued that building was one that Cupcake wanted to move into, it burned down a few years ago and a new building was built. It was a B2 building and after it burned down they built another B2 building, there has never been a variance there.

Ms. Maddox stated that the building looks a good 7-8 feet above grade. Mr. Diatta stated that his information about the height of the stairs comes from a software program used by the City.

Ms. Maddox noted that there are businesses on both sides of this business and down the street they all have customers, however, nobody is here saying that there is a lack of parking or objecting. She stated that looking down the street the houses and the porches are very attractive, but right in the middle is a commercial building, it would not be that objectionable to her if this property is built out.

Mr. Courtney stated that he thinks that the parking variance is nominal; he would give the applicant the parking variance but not the 25 foot setback variance. Ms. Maddox stated that she agrees with Mr. Courtney, with family living in the business and part of the work being done at other locations the parking does not seem to be that much of a problem as most of the other businesses have. But that still leaves the setback to be dealt with. She does not know what other design could be used to be functional for the handicapped. Mr. Courtney stated that he thinks that the findings for denying the setback are pretty strong.

Mr. Courtney moved to deny of the 25 foot setback variance and resolution based on findings 1, 3 and 4.

Mr. Wilson stated that he does not have any problem with the setback.

Ms. Maddox stated that Mr. Courtney's motion dies for lack of a second.

Mr. Courtney moved to approve the variance and resolution for the off-street parking. Ms. Maddox stated if the building is not increased then the parking variance is not needed. Mr. Courtney stated that he could appeal the setback but he will already have the parking approved.

Mr. Diatta asked how many parking spaces are being talked about varying it looks like it could be four or five. The floor plan was not clear, if the floor plan that was submitted was correct then only one parking space is needed. Ms. Maddox stated we will go with one.

Mr. Warner stated that he would suggest that the parking variance is conditioned on the approval of some expansion of the footprint. Because the parking is determined by the square footage of retail space if the space is not expanded the point is moot. Ms. Maddox asked Mr. Courtney and Mr. Saylor if that were agreeable to their motions. Both agreed.

Mr. Saylor seconded the motion, which passed on a roll call vote of 4-0.

Mr. Warner reminded the Board that it is necessary to have 4 votes to approve this, if there are not four votes for approval this may need to be continued. Ms. Maddox stated that it may be in everyone's best interest to lay this over until there are more Boardmembers in attendance. She apologized to the applicants; the Board is short of members. She suggested some discussion before a motion to layover.

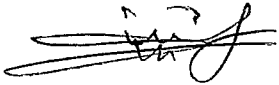
Mr. Wilson stated that he did not have a problem granting the variance for the 25 foot front

setback.

Mr. Courtney moved to continue the case for two weeks until 11-10-14.

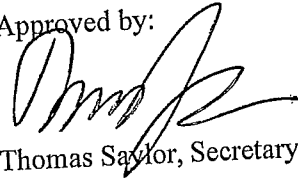
Mr. Wilson seconded the motion, which passed on a roll call vote of 4-0.

Submitted by:



YaYa Diatta

Approved by:



Thomas Saylor, Secretary

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, NOVEMBER 10, 2014

Continued from 10-31-14

PRESENT: Mmes. Maddox, and Bogen; Messrs. Courtney, Saylor and Wilson of the Board of Zoning Appeals; Mr. Diatta and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: Marilyn Porter*, Daniel Ward*

The meeting was chaired by Joyce Maddox, Chair.

Rafic Chechouri (#14-332913) 945 Grand Avenue: Variances of the setback and off-street parking requirements in order to enlarge an existing retail store. 1) A front yard setback of 25 feet is required; a zero foot setback is proposed, for a front yard setback variance of 25 feet. 2) A 4 foot setback is required from side property lines; the addition would be in line with the building on both sides but the existing setback is 3.5 feet from the west property line for a variance of .5 feet. 3) The existing use requires 5 off-street parking spaces but only 3 spaces are available; the use in the proposed expanded building requires 7 off-street parking spaces for a variance request of the difference in parking between the existing use and the proposed use which is 2 parking spaces.

Mr. Diatta reviewed the case history from the previous hearing with a recommendation for denial. The Board could not make a decision on this case because the Board is short of staff and there were not 4 votes for either approval or denial.

No correspondence was received opposing the variance request.

One letter was received from District 16 taking no position on the variance request. The District Council did meet on this matter; however, they had a tied vote so they took no position on the variance request.

Ms. Bogen asked staff about side yard setback variance. Mr. Diatta stated that the applicant has indicated that he is withdrawing the side yard setback variance that he would move the building over to meet the required front setback from the west property line.

The applicant **RAFIC CHECHOURI**, 945 Grand Avenue, was present. Mr. Chechouri stated that he is also willing to move the building back 2-3 feet from the sidewalk as long as they can open the door within that 2-3 feet.

Mr. Saylor and Mr. Chechouri discussed the District Council meeting on this variance request and that the Council was more concerned that he would build another flat roofed box commercial building rather than a building with the look of a residence. Mr. Chechouri assured the District that the building would not be a flat roofed commercial building. Mr. Saylor asked when Mr. Chechouri purchased the building. Mr. Chechouri stated that he purchased the building on 2009. Mr. Saylor stated that one of the points that the District Council got stuck on was that the property was purchased in 2009 and the applicant knew that the BC zoning of this property would not allow the kind of expansion being proposed at this time. Mr. Chechouri stated that at that time he did what he could do and did not know he would want to expand the building one day, at that time their main concern was a business for their loyal customers to be able to get to. If a building was built next door to his property, after he purchased it he has no control over that.

Mr. Wilson and Mr. Chechouri discussed that there will be landscaping between the sidewalk and the building with large planters on either side of the door which will be placed in the center of the front facade.

32

There was no opposition present at the hearing.

Hearing no further testimony, Ms. Maddox closed the public portion of the meeting.

Mr. Wilson moved to approve the variance and resolution based on findings 1 through 6.

The Board decided to vote before dealing with the findings.

Mr. Saylor seconded the motion, which failed on a roll call vote of 2-3(Courtney, Bogen, Maddox), the motion fails for the lack of 4 votes.

Mr. Courtney commented that he stated last time that he agreed with the staff findings and thought that they were very strong and he would not vote for this, 25 feet is a very big variance and the City Council should deal with changing the requirement.

Mr. Courtney moved to deny the variance and resolution based on findings 1 through 6.

Ms. Bogen seconded the motion, which failed on a roll call vote of 3-2(Wilson, Saylor), the motion fails for the lack of 4 votes.

Mr. Courtney stated that he does not think that he will change his vote on this, however, if it goes before the full District Council Board they may come back with some useful information for this Board, and perhaps this Board will have one more Boardmember at the next BZA(Board of Zoning Appeals), hearing. Ms. Bogen stated that the letter from the District Council stated that only three Boardmembers attended and that with only two people voting and one abstaining it was not a fair hearing for the applicant. The Board further discussed the District Council's lack of position on this case.

Ms. Maddox and Mr. Saylor discussed that the building next door to the applicant's property was built after he purchased his property and that changes the case for Mr. Saylor. Ms. Maddox stated but it is a commercial property and can be built up to the sidewalk. Mr. Diatta stated that he would send out an extension letter to the applicant to cover the deadline of action on this case..

Ms. Bogen stated that she would move to continue this for two weeks and if the District Council cannot get it on this next hearing this Board can lay it over another two weeks to allow the District Council's full Board to hear this matter and perhaps give the Board of Zoning Appeals some further direction on this matter.

Mr. Diatta and Ms. Maddox discussed the layover and that the Board is thinking of a two week layover, if the Board has to lay it over beyond that it may interfere with the time needed for the City Council to deal with this if it gets appealed.

Ms. Maddox requested that staff contact the District Council on this matter to let them know that this Board thinks that their input is very important.

Ms. Bogen moved to continue the matter for 2 weeks for a meeting with a full board in attendance.

Mr. Courtney seconded the motion, which passed on a roll call vote of 5-0.

33

Submitted by:

YaYa Diatta

Approved by:

Thomas Saylor, Secretary

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, DECEMBER 8, 2014

Continued from October 27 & November 10, 2014

PRESENT: Mmes. Maddox and Bogen; Messrs. Courtney, Ward, Saylor and Wilson of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Diatta and Ms. Crippen of the Department of Safety and Inspections.

ABSENT:

*Excused

The meeting was chaired by Joyce Maddox, Chair.

Rafic Chechouri (#14-332913) 945 Grand Avenue: Variances of the setback and off-street parking requirements in order to enlarge an existing retail store. 1) A front yard setback of 25 feet is required; a zero foot setback is proposed, for a front yard setback variance of 25 feet. 2) A 4 foot setback is required from side property lines; the addition would be in line with the building on both sides but the existing setback is 3.5 feet from the west property line for a variance of .5 feet. 3) The existing use requires 5 off-street parking spaces but only 3 spaces are available; the use in the proposed expanded building requires 7 off-street parking spaces for a variance request of the difference in parking between the existing use and the proposed use which is 2 parking spaces.

Mr. Diatta reviewed the case history with a recommendation for denial of the setback variance. He stated that staff has received a letter from District 16 Council recommending denial of the request.

One letter was received from the applicant about procedural issues with the District Council.

The applicant **RAFIC CHECHOURI**, 945 Grand Avenue, was present. He explained the reason for the .5 foot side yard setback that he withdrew from the variance application. He stated that he had nothing further to add.

Brian Alton, 951 Grand Avenue, stated he is a neighbor of Mr. Chechouri and is in attendance to support his variance request. He discussed the buildings along Grand Avenue that have been built out to the front property line as the reason that Mr. Chechouri is having a problem with visibility for his business. Mr. Alton stated that he also represented the previous owner of Mr. Chechouris' property who also ran a jewelry business out of the property and had the same difficulties with visibility issues as Mr. Chechouri. Noting that there is a steep staircase to get into the building making it challenging to provide an accessible entrance for the business. He contended that an addition on this property would not negatively affect the neighborhood nor set any precedents.

There was no opposition present at the hearing.

Hearing no further testimony, Ms. Maddox closed the public portion of the meeting.

Ms. Maddox stated that she loves the mix of houses and businesses on Grand Avenue and understands the issue Mr. Chechouri has with the business to the west that has been built up to the sidewalk blocking street view of his building. She would not have a problem granting the requested variance because Mr. Chechouri is blocked in on both sides and the business is not readily visible from the street.

Mr. Ward stated that granting this variance would not be out of character for this neighborhood.

Mr. Courtney stated that it is his opinion that the application does not meet the findings and he is not

35

going to move to approve this, being the District Council came up with the same argument that the applicant does not meet the findings.

Mr. Ward moved to approve the variance and resolution based on findings 1 through 6. He stated that for finding one, because there is a building right next door that was built up to the property line it would not be out of character for the neighborhood to build this one out as well. He argued that for finding three there are practical difficulties because of the BC zoning, the nature of the street and because of the building right next door. Mr. Ward continued for finding four Mr. Chechouri did not create this situation, he purchased a building on Grand Avenue 20 years ago, Grand Avenue has grown and changed in that time. Mr. Chechouri did not know that the building next door would be built out to the property line obscuring his business when he purchased the building.

Ms. Bogen stated that when the Chair mentioned that if this were two houses down from this property she probably would not be voting for it, but since it is right next to the other building that is built out, she is for it, but once this building is built out, then the building two houses down is right next to a built out building. Ms. Bogen stated that she thinks that this will just snowball down Grand Avenue if the Board grants this variance.

Ms. Maddox stated that Ms. Bogen makes a very good point. She asked Mr. Diatta to expand on the excavation alternative he mentioned in finding three. Mr. Diatta stated that when staff looked at the requested variance and the argument laid out by the applicant that they want to make the building accessible to his elderly clients. He stated that if they excavate the yard in the front of the building would be at street level and customers will be able to enter to the building without having to climb up the stairs to get in and there will be no need to move the building forward. Alternatively a ramp could be created although the applicant has stated that a ramp will not work because of the steep angle. Mr. Diatta stated that excavating the front and leaving the building exactly where it is can allow straight access to the building without moving it forward. He stated that he understands the other argument that his building is still blocked visually by the building to the west and that argument is still valid. Staffs recommendation of excavating the front of the building would work for the handicapped access, but would not have any affect on the visibility issue.

Ms. Maddox stated that because of the Grand Avenue Special Sign District there is not much that can be done with signs for the visibility issue. Mr. Diatta stated that they could have a free standing sign in the front yard but it would have to be located 5 feet from the property lines.

Mr. Saylor stated that as far as the character of the neighborhood, we are talking about Grand Avenue, there are many characters of Grand Avenue. West on Grand Avenue from this property there are more houses that have been converted to businesses. Directly east from this location it isn't more than a block before all the buildings are built up to the front property line. We are not talking about changing the essential character of the neighborhood it already has multiple characters. This area is in the middle, this particular block is where this all comes to a head. Mr. Saylor stated that he thinks with a clear conscience that granting this variance is not changing the character of the neighborhood. He thinks that because of the building next door that this is a reasonable application.

Mr. Courtney stated that the question is not whether it is a reasonable variance or not. The question is not whether Mr. Chechouri needs some help. Mr. Courtney said he is sure that the applicant needs some help, he is expanding the building. The question is whether he meets the criteria; he does not meet the criteria. That is what the staff findings say, that is why the District Council decided that way. He stated that if Mr.

36

Chechouri wants to change the entire character which is what is being talked about here he should change the zoning on the property. Mr. Courtney stated that is what he is asking, to change all the rules here. The applicant is a nice guy, he wants to have a good business; the Board does not give out variances just because of that.

Mr. Ward stated that does not solve the issue of how does a business be seen. This all came about because of a special sign district. Mr. Chechouri wants to operate a business, to advertize and to be seen like everybody else on Grand Avenue. Mr. Ward continued that he drives up and down Grand Avenue looking for different locations and ends up going around the block 4-5 times because he misses something. He argued that this would not change the character, it is a business district and it could look like a business. Mr. Ward stated that for handicapped customers to be able get into the building and shop and spend their money just like everyone else, he thinks a ramp meets some of the requirements but a ramp still does not solve the issue.

Mr. Diatta stated that the BC district was established to allow people who have houses on Grand Avenue to operate a business out of their houses, while still maintaining the character of a residential dwelling, by providing the front and side setbacks. What the applicant is trying to do is get rid of the front setback, that alone is not in keeping with the intent of the BC zoning district.

Mr. Saylor seconded the motion, which failed on a roll call vote of 2-4(Bogen, Wilson, Courtney, Maddox).

Mr. Courtney moved to deny the variance and resolution based on findings 1, 3 and 4.

Ms. Bogen seconded the motion, which passed on a roll call vote of 4-2(Ward, Saylor).

Submitted by:

YaYa Diatta

Approved by:

Thomas Saylor, Secretary

237