



CITY OF WAUWATOSA
7725 WEST NORTH AVENUE
WAUWATOSA, WI 53213
Telephone: (414) 479-8917
Fax: (414) 479-8989
www.wauwatosa.net

**MEETING OF THE BOARD OF ZONING APPEALS
Thursday, June 28, 2012**

PRESENT: Mr. Randall, Mr. Bittner, Mr. Pennoyer

EXCUSED: Mr. McGuan, Mr. Subotich

ALSO PRESENT: J. Ferguson, Planner

Mr. Randall as acting Chair called the meeting to order at 7:00 p.m.

**6228 West State Street Temporary Use
Request by Tyler Sullivan and Tom Schuler for a Temporary Use in the AA Light Manufacturing
District at 6228 West State Street to operate a CrossFit Gym.**

Mr. Sullivan is requesting a temporary use to operate a CrossFit gym at a location zoned AA Light Manufacturing, a district that currently does not allow physical fitness uses. The applicant applied for and received a temporary use permit for this business at this location in June, 2011, as the City was just beginning revision of the zoning code that would include provisions for this use. The Board granted the approval for a one year time period, with the understanding that an extension of the temporary use permit would be necessary if the zoning code had not yet changed to accommodate the use. The minutes from the June, 2011 meeting are enclosed for reference.

City delays in developing the new zoning code are what necessitate the renewal of the temporary use permit at this time. Staff anticipates adoption of the updated code by the end of 2012. The current draft of the code allows a fitness use such as the CrossFit gym in locations zoned AA Light Manufacturing, which is the reason the temporary use permit is identified as the appropriate course of action.

Badger CrossFit is a full-service strength and conditioning gym, which caters to individuals who desire true fitness. The proposed business is described as not a typical gym or fitness studio with moving parts or machines, but instead offers different, overall fitness workouts through personal training sessions by appointment as well as group classes of up to 15 persons per class (membership only). Letters of support from nearby neighbors and businesses are included, along with e-mail complaints from one neighbor who disapproves of the clients' use of the public sidewalks.

Present in favor: Tyler Sullivan, 1169 N. 62nd Street
Coleen Pomeroy, 2616 Normandy Ct
Greg Hildebrand, 1566 Martha Washington Dr.

Mr. Sullivan explained that the Badger CrossFit gym is a full-service strength and conditioning gym which caters to individuals who desire true fitness. They use bio-mechanically correct movement patterns within the realms of Olympic weightlifting, power lifting, track and field, gymnastics, etc. Mr. Sullivan provided pictures of his classes.

Ms. Pomeroy was present in favor of the CrossFit gym. She is the owner of Grandma's House at 11401 Watertown Plank Road and 6119 W. Vliet Street and has been a member of this gym since September, 2011. Ms. Pomeroy stated that this is a positive environment and has a good support system and teaches how to use everyday items for fitness.

Mr. Hildebrand was present in support of the CrossFit gym. He has been a member since November, 2011 and also lives within 1,000 meters of the gym. Mr. Hildebrand stated that part of the training is sprinting which takes place outside of the building along with push ups, sit ups, pull ups combined with a nutritional component. With this combination, Mr. Hildebrand has been successful with his weight loss. Mr. Hildebrand commented that most members are local residents. Mr. Hildebrand feels that it will be a great loss to the community if the temporary permit is not approved.

Present in opposition: Gary Kandziora, 6124-6130 West Martin Dr.
Sandra Kandziora, 6124-6130 West Martin Dr.

Mr. Kandziora was present in opposition of the CrossFit gym. Mr. Kandziora stated that the members of the gym run past his house beginning at 5:30 a.m. and continue throughout the day. There may be as many as 14 people at a time running. The members take tires and lift them down the sidewalk, they carry large weights, and line up in the street and on the sidewalk prior to running. Mr. Kandziora stated that it is difficult to back out of his driveway and finds it distracting and dangerous to other pedestrians. Mr. Kandziora has been videotaping this activity and provided this video to the Board.

Mr. Kandziora commented that members of CrossFit gym make vulgar comments toward he and his wife during their running exercises. He informed the board that there is a grapevine in the front of CrossFit gym's facility that invades the sidewalk area and pedestrians have to walk through a smaller path however, if there is a runner or multiple runners, they have to go into the street. Mr. Kandziora commented that there is no sidewalk in front of their home.

Ms. Kandziora was present in opposition of the CrossFit gym.

The Board and Mr. Sullivan reviewed 13 minutes of the video from Mr. Kandziora. Ms. Kandziora stated that the video is taken from her office.

Mr. Randall asked Mr. Sullivan if he spoke to the building owner regarding the grapevine needing to be trimmed back so as to not invade the sidewalk area. Mr. Sullivan responded that he has not however, he has trimmed this grapevine before and will do so again.

Mr. Randall asked if the early running of the members prior to 6:00 a.m. caused concern of noise. Mr. Kandziora responded that the runners make his dog bark.

Mr. Pennoyer asked if there were any other complaints from other business owners or residents within the neighborhood. Ms. Ferguson responded that she has not received any other complaints. Ms. Ferguson did notify the residents in the surrounding area but has not received responses. She has received support letters from other business owners such as Dr. SlimBody & Serenity Bike Works, LLC, A Healthy Perspective, LLC, The Wisconsin Soup Company, and Aldridge Accounting and has provided copies of these letters to the Board.

Mr. Randall informed the Board that he did receive information from the City Attorney that the sidewalk is for public use. Mr. Randall asked if Mr. Sullivan has thought of changing the route for the runners. Mr. Sullivan responded that they have gone south to State Street and back.

Mr. Randall asked what are the days and hours of operation. Mr. Sullivan responded that he is open Monday through Saturday from 5:00 a.m. to 9:00 p.m., however his trainers are at the facility on Sundays. He is not open to the public on Sundays, it is strictly for his trainers.

Mr. Randall commented that in the minutes from June, 2011, it indicates that Mr. Sullivan anticipated five persons in the gym at any one given time, but the video there are many more than that. Mr. Randall asked if the facilities are sufficient for the increased membership? Mr. Sullivan stated that he has seen an upward growth in his membership since he opened. His classes have increased from five to ten and now from ten to fifteen. Mr. Sullivan does not want to increase the size of his classes beyond 15 members, but may increase the number of classes by adding trainers.

Mr. Randall stated that Mr. Sullivan did not inform the Board regarding his use of the public sidewalks as part of his training however, the Board has received information from the City Attorney that the sidewalks are for use by the public. Mr. Randall stated that Mr. Sullivan did comment about the dumbbell noise and indicated that they did not have machines. Mr. Sullivan commented that the landlord is beginning renovations on the building and will be painting as well.

Mr. Randall asked if he discusses the neighborhood with the membership. Mr. Sullivan said that he provides a verbal guidance on the routes for running and sprinting to his members and asks that they be conscientious to the neighborhood. Mr. Randall asked if during their running and sprinting exercises, is there a trainer saying "keep going" to motivate the runners or music? Mr. Sullivan responded no.

Mr. Randall asked Ms. Ferguson if the zoning change will allow for this type of gym. Ms. Ferguson responded that they would qualify as a recreational facility. This building is more appropriate for this type of gym as opposed to other gyms that are equipped with equipment. Mr. Pennoyer commented that if someone with a pizza business or retail sales were to occupy this facility, there would be increased traffic in the area. Mr. Sullivan commented that the space limit is 150 persons.

Mr. Bittner commented on the pictures of weights and rowing machines. Mr. Bittner asked if these were located in the courtyard. Mr. Sullivan responded yes.

Mr. Randall asked if Mr. Sullivan would be willing to alter the routes that the runners take. Mr. Sullivan explained that the runners do a 200 meter run, a 400 meter run and an 800 meter run. Mr. Sullivan is willing to alter the routes so they would run on the opposite side of the street, bypassing Mr. Kandziora's house and driveway, and he could also have them run the opposite direction. Mr. Sullivan did comment that there is more traffic and more people on bikes if he recommended the opposite direction, he prefers to keep his members safe. There is a new sidewalk being installed on the opposite side of the street and Mr. Sullivan would be willing to direct his members to use this for their routes.

Mr. Randall requested a break at 8:25 p.m.
Meeting resumed at 8:30 p.m.

Mr. Pennoyer asked if the sprinting route in which the runners touch the pole, is before Mr. Kandziora's property? Mr. Sullivan responded, yes. Mr. Pennoyer asked about the frequency of the runs. Mr. Sullivan responded that they could be once per week or three times per week, the rounds can be three rounds or six rounds per class. There are two classes in the morning, three at noon, and three in the evening.

Mr. Randall asked Mr. Sullivan if he could take more responsibility for his members in informing them of the routes to take for their runs, limit the amount of persons running in each direction, and advise them of appropriate conduct so as to create as little disruption as possible within the neighborhood. Mr. Pennoyer is

also requesting to limit the class size to 20 persons and the frequency to five times per day going the same route.

Moved Mr. Pennoyer, seconded by Ms. Bittner to approve the variance request for a temporary use permit. Regarding the Temporary Use application by Tyler Sullivan for Crossfit Gym at 6228 West State Street, this board finds:

1. That the establishment, maintenance or operation of the Temporary Use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the Temporary Use.
3. That the establishment of the Temporary Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. That the Temporary Use shall meet all applicable building setbacks of the district in which it is located or as otherwise provided for.

Based upon these findings, I move that the Temporary Use be granted for one year beginning July 1, 2012 to expire June 30, 2013, subject to the following conditions:

- A. Class Limitations
Class size limited to 20 members
- B. Route/Frequency
North on 62nd turning East on Martin Street no more than five times per day
- C. Vegetation
Vegetation to be trimmed so the sidewalk is fully accessible to the public.

Roll call vote taken: Ayes: 3

Meeting adjourned 9:30 p.m.

Jennifer Ferguson

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