



CITY OF WAUWATOSA
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COMMUNITY DEVELOPMENT COMMITTEE MEETING

Tuesday, June 25, 2013

Committee Room #1

PRESENT: Alds. Roznowski, Pantuso, Moldenhauer, Walz-Chojnacki, McBride, Berdan, Wilke,
Causier - 8

ALSO PRESENT: A. Kesner, City Attorney; P. Enders, Economic Dev. Director;
G. Blando, Property Maintenance Insp.

Ald. Roznowski as Chair called the meeting to order at 8:04 p.m.

Conditional Use in the C2 District at 6005 W. Vliet Street to operate a gas station with convenience store

Ms. Enders reviewed the request of Mandeep Dhawan and Robert Wold, Robert Wold Architects, for a Conditional Use to operate a gas station with convenience store at 6005 W. Vliet Street. The facility previously sold gas but recently has only offered auto repair. Two additional gas pumps with a canopy are proposed on the east side of the building and the existing service area would be converted to a convenience store. The proposed hours of operation are 5:00 a.m. – 10:00 p.m. daily. The Plan Commission on January 7, 2013 held the item for 90 days to allow the applicant to work out the issues discussed. This item was discussed again at the Plan Commission on April 8, 2013 and held again for additional information. On May 13, 2013 the Plan Commission recommended denial of the Conditional Use. Ms. Enders noted that the Police Department was contacted regarding this request and they were not overly concerned with this proposal, but they would do more investigating.

The Community Development Committee discussed the conditional use at the May 28th, 2013 meeting. The motion at this meeting was to hold this item until June 25th.

Ald. Roznowski explained the process for those who wished to speak. He asked that everyone please show civil discourse and respect to each other.

Present in favor: Atty. Jeff Guerard, 6525 W. Blue Mound Road
Joseph Bacon, 2401 W. Lapham Street, Milwaukee
Dan Wiskowsky, 4000 N. 73rd Street, Milwaukee
David Berger, 1408 Lombard Court, Wauwatosa
Lyle Maryniak, 1422 Lombard Court, Wauwatosa
Richard Brunner, 8303 W. North Avenue, Wauwatosa

Comments made by those in favor include the fact that this station would be an owner occupied station, no liquor will be sold, the owner will supply 24/7 contact information, convenient location to get gas, building will look better after improvements are made, more business being brought into Wauwatosa, Mr. Dhawan is

a good person and will bring jobs to the community, the City doesn't need a boarded up building, early morning business hours will help provide security in the neighborhood, someone will be around to keep an eye out for things that don't look right.

Present in opposition: Sharon Eiff, 1417 Lombard Court, Wauwatosa
Marilyn Mayr, 1429 Lombard Court, Wauwatosa
Jane Wagner, 1342 Martha Washington Drive, Wauwatosa
John Huwiler, 1279 Martha Washington Drive, Wauwatosa
Jon Murrish, 1354 N. 59th Street, Wauwatosa
Mary Grages, 1307 Martha Washington Drive, Wauwatosa
Claudette Robinson, 1706 N. 119th Street, Wauwatosa
Lisa Maglio, 1321 N. 60th Street, Wauwatosa
David Brossard, 1405 Lombard Court, Wauwatosa
Virginia Schumann, 1405 Martha Washington Drive, Wauwatosa
Sandra Murphy, 6314 W. Lloyd Street, Wauwatosa

Concerns raised by those present in opposition included parking concerns, increased congestion at corner of 60th and Vliet, exiting station will be problematic, past history at other Milwaukee gas stations is not good, concern that the good restaurants in the area could be driven out if the business brings a bad element to the neighborhood, not a good fit for the neighborhood, the City should invest in something better for this property, jurisdiction concerns at this corner between Wauwatosa and Milwaukee could slow response time for help, make this a parking lot as there is a great need for parking in this location, traffic congestion, this business will attract crime, don't feel comfortable with the potential operator, no sense of community, and too many complaints at his other stations.

General comments made: Andy Pozorski, 1314 N. 58th Street, Wauwatosa
Tom Kapusta, 6005 W. Vliet Street, Wauwatosa

Questions were asked why it was going to take over a year to remodel the station. Mr. Guerard explained that the current owner will still be doing business while under renovation and that basically the entire building will be gutted.

Ald. McBride thanked the committee for letting him speak before he had to leave. He noted that he has tried to listen to all sides of the issue. He felt that the use is appropriate and didn't want a vacant building here. He questioned whether this is the right owner for this location. Mr. Dhawan has just recently hired an attorney to speak for him and it is very late in the game. He felt his track record at his Milwaukee stations is not good and wasn't sure he would be responsive to the City. Ald. McBride said that he has talked to another individual who had made an offer on the parcel at 6005 W. Vliet Street and it was turned down.

Ald. McBride excused at 8:48 p.m. - 7

Mr. Kapusta clarified that he has never received another offer on his building. He said that no matter what business you put at this location, you cannot stop a criminal from coming into Wauwatosa.

Atty. Guerard clarified a few misconceptions discussed and said there was not a murder at one of Mr. Dhawan's business. There was at a bus stop located near one of his stations. The police would use that address and thus would show up on any requests for reports at that address.

Mr. Kapusta replied to a question that he had gas deliveries once every five days when gas was sold there. He also had auto parts delivered daily. At one time there was a convenience store at this location

and deliveries were made for food items as well. The stations hours at that time were 5:00 a.m. – 11:00 p.m. When the station had gas pumps they ran 24/7. Mr. Dhawan replied to a question that he would have gas delivered to the station at least once a week.

Mr. Blando explained the inspection procedures which would be done by different departments as needed. These would include the health department, the fire department and the building department. Some inspections would be twice a year. Complaints are handled when complaints come in. Licenses are renewed annually and an inspection would be made before the license could be re-issued. There are different strategies of enforcement. A verbal list could be made with the expectation that corrections would be made right away if it were an emergency. Otherwise compliance would be expected within 30 days. If not done in that timeframe a citation would be issued.

Ald. Walz-Chojancki said he was conflicted on how to proceed. Clearly this parcel needs to be developed. In the past there used to be a convenience store with gas pumps open 24/7. He felt that the number of citations in Mr. Dhawan's other establishment were addressed quickly, generally within two weeks and he felt that spike responsibly. Some citations issued he felt were not destructive to the neighborhood, such as stickers placed on gas pumps. Some of the safety violations given were a concern to the alderman.

Ald. Pantuso felt that this parcel is due for some redevelopment. From a business standpoint if someone wants to open there and has the money to do so, why not let them. But he felt this discussion on this parcel would be back in three or four years. He expressed displeasure that he felt Mr. Dhawan was put on trial at this meeting. Ald. Pantuso felt the City should think outside the box on this parcel and go to the Community Development Authority. He didn't think a new coat of paint on this building is the answer.

Ald. Berdan also felt conflicted. She didn't feel that this gas station would bring any more crime to the area and that there are already traffic issues at this location. She suggested that competition can be a good thing and you shouldn't want to close down a business because of too much traffic. She noted that the process for this application started off rocky but has the support of the Milwaukee aldermen on his other properties. Ald. Berdan noted that the Wauwatosa police don't see it as an issue. Although she had concerns she said would support this.

Ald. Modenhauer shared the concerns expressed and has received negative comments from his constituents. He felt the City could do better with this parcel and would not support this.

Ald. Wilke agreed with the district aldermen adjacent to the area. He felt this intersection is a gateway to the City and this station does not blend into the neighborhood aesthetically. He also felt something better could be done with this parcel.

Ald. Organ agreed with previous comments and would not support the proposal at Council. There are better options and operators for this site.

Ald. Roznowski said the participation and comments received were helpful. He was not in favor of this. He expressed concern about the accountability and safety issues with this operator. He agreed that this location is a gateway into Wauwatosa and didn't feel the station is the answer. He expressed concern and disappointment that Mr. Dhawan did not reach out to the neighbors.

Moved by Ald. Roznowski, seconded by Ald. Moldenhauer
to deny the conditional use.

Ald. Pantuso said he is very pro business and didn't want to get in the way of a business person. However the neighborhood is re-establishing itself and felt the City deserves better at this corner. Collaboration with the neighborhood makes a successful business.

Ald. Berdan didn't want to set a precedent that the City would dictate what type of business would go to a particular parcel making it the kind of business the City wants there. Ald. Causier didn't think traffic was going to be more of an issue than it is currently. She was sensitive to the concerns of crime and of the safety violations at the applicant's other stations but noted this is not a new use for this location.

Ald. Causier expressed concern that an assumption has been made that this gas station would not be successful here.

Vote on the motion to deny – Ayes: 5 Noes: 2 (Berdan, Walz-Chojnacki)

Ordinance amending Chapter 15.28 of the Municipal Code to permit installation of fences in rear yard up to six feet in height

Ms. Enders updated the committee on the status of the fence amendment which is brought back tonight for adoption.

Mr. Jim Maurer of 1839 - 1841 Ludington Avenue submitted a letter dated July 13, 2012 to the City requesting that they seriously consider approving raising the current allowable residential fence height from four and one-half feet to six feet on the rear and side yard elevations. This letter was accompanied by his personally circulated petitions.

On September 25, 2012, the Community Development Department discussed Mr. Maurer's request to amend the fence ordinance. After review of Chapter 15.28, staff recommended changes to 15.28.030 (A) (2). Staff did not recommend allowing six foot high fences within the side yard as proposed by Mr. Maurer.

In addition, staff proposed to submit an updated fence ordinance to the Community Development Committee that would include the proposed language, as well as additional changes in an attempt to eliminate conflict. Several committee members thought it would be better to include the request by Mr. Maurer with the entire discussion about the ordinance, rather than making decisions piecemeal. The Committee voted to have staff return to Committee with a more comprehensive update to the ordinance.

At the June 11, 2013 meeting, Ald. McBride asked about any nationwide community standards. Ms. Enders said she wasn't aware of any nationwide standards but typically fences tend to come in even feet increments at the building stores. Wauwatosa having a four and one-half foot standard is an odd size.

Three examples were reviewed and explained pertaining to side yard fences. The context of this is to allow a six foot height fence in rear yards instead of the four and one-half foot fence currently allowed. The committee reviewed and discussed the different scenarios as shown.

Mr. Blando explained the corner lot scenarios along with an interior lot sample. Front yard setback areas are consistent, however rear yard setbacks are not. He explained how different parcels were plotted in the scenarios shown. As you can see typically the front yard setbacks are consistent although not the rear yards.

Ald. Wilke noted that some corner lots suffer when the front door faces the side yard and this was discussed at length. The way it is written now there would be no exceptions for these parcels and would there be an appeal for these parcels to request a variance. The buildable area of the parcel was discussed explaining how the setbacks can differ. Corner lots can suffer when the front door faces the side yard. Most interior lot provisions would allow for a six foot height fence.

Currently the variance request goes to the Board of Zoning Appeals and a hardship must be met which is extremely difficult to prove. Mr. Blando suggested restructuring the variance policy. The City Attorney explained that an exception could be requested in lieu of a variance to the ordinance.

The draft ordinance changes presented only deal with the rear yard, not the side yard. Tonight's proposal is to only go from a four and one-half foot fence to a six foot fence.

Mr. Blando suggested that with the committee's blessing another change could be to allow for an exception to the code for side yard setbacks while maintaining the neighborhood integrity.

Ms. Enders said that exceptions could be made with lesser criteria while still following state guidelines.

Moved by Ald. Pantuso, seconded by Ald. Wilke
to recommend adoption of the proposed amendment
to the fence code as drafted with the exception of
corner lot parcels. These parcels could request an
exception for the six foot fence within the side yard. Ayes: 7

The meeting adjourned at 10: 24 p.m.

Carla A. Ledesma, City Clerk
City of Wauwatosa

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