

**CHARTER TOWNSHIP OF MERIDIAN
ZONING BOARD OF APPEALS MEETING MINUTES ***DRAFT***
5151 MARSH ROAD, OKEMOS MI 48864-1198
517.853.4000
WEDNESDAY, May 24, 2017**

PRESENT: Members Jackson, Rios, Lane, Stivers, Chair Beauchine
ABSENT: Member Ohlrogge
STAFF Director Kieselbach, Community Planning and Development
Keith Chapman, Assistant Planner

A. CALL MEETING TO ORDER

Chair Beauchine called the meeting to order at 6:30 p.m.

B. APPROVAL OF AGENDA

MEMBER RIOS MOVED TO APPROVE THE AGENDA AS WRITTEN.

SECONDED BY MEMBER STIVERS.

VOICE VOTE: Motion carried unanimously.

C. CORRECTIONS, APPROVAL & RATIFICATION OF MINUTES

Wednesday, May 10, 2017

MEMBER LANE MOVED TO APPROVE THE MINUTES OF WEDNESDAY MAY 10, 2017 AS WRITTEN.

SECONDED BY MEMBER STIVERS.

VOICE VOTE: Motion carried unanimously.

D. COMMUNICATIONS

None.

E. UNFINISHED BUSINESS

None.

F. NEW BUSINESS

1. ZBA CASE NO. 17-05-24-1 (STOCKWELL DEVELOPMENT CO. LLC), 4277 OKEMOS ROAD, OKEMOS, MI 48865

DESCRIPTION: 1560 Grand River Avenue
TAX PARCEL: 22-426-006
ZONING DISTRICT: C-2 (Commercial)

The applicant is requesting a variance from the following sections of the Code of Ordinances:

- Section 86-755, for commercial centers having a gross floor area of less than 25,000 square feet, a minimum of 5 parking spaces per 1,000 square feet to a maximum of 5.5 parking spaces per 1,000 square feet are required.

The applicant is requesting to construct an 11,736 square foot shopping center with a drive-through window.

Keith Chapman, Assistant Planner, outlined the case for discussion.

Jeff Kyes, Kebs Inc. 2116 Haslett Road, Haslett, the representative for the applicant, stated market research had drawn mainly restaurant business interest to the subject site. However, to draw other food service businesses, additional parking spaces are required, but the ordinance is restrictive to the number allowed based on the gross square footage. He said if the calculation is based on a standalone restaurant there are different ways to calculate parking spaces needed. He pointed out two restaurant locations where the zoning restriction is causing parking issues. One location is at Okemos Road and Jolly Road, and another at Grand River on the east side of Marsh Road. He added the subject property size allows for 70% impervious area, but the site plan with the additional parking spaces is only at a 45% range. He added they had met all the standards required by the Country Drain Commission Office for storm water management.

Chair Beauchine opened the floor for public remarks, seeing none, closed public remarks.

Chair Beauchine asked Ken Lane, Planning Commissioner, and Pat Jackson, Township Trustee, if there are any special ordinances for restaurants whether it is in a commercial district or not. He also asked if there have been any applicant who has appeared before the Planning Commission with concerns about the zoning restrictions for restaurant parking.

Member Lane stated not to his knowledge.

Member Jackson replied most of the commercial applications requesting variances, are for more parking spaces than the ordinance allows, but she didn't remember any cases for restaurants.

Chair Beauchine added there is nothing in the site plan dealing with restaurants; it is only a proposed future development, which could be retail space as well. He commented on the ebb and flow of traffic patterns at various public events, which do fill up the parking spaces of the businesses located at Okemos Road and Jolly Road. He added Meridian Road Park deals with the same issue during soccer events, with overflow parking on Meridian Road, creating traffic issues, then returning to empty parking after an event.

Member Rios added that the subject site plan has no public parking or residential streets to be utilized for overflow parking such as special events, and without the additional parking spaces it could limit the parking spaces available for business.

Member Lane replied from the Planning Commission perspective when the project developer presented the site plans, the developer envisioned the site being filled with restaurants, and he originally requested two drive-through windows, which one was approved. He added if the plan for filling the site with restaurants happens without the extra parking spaces people could end up parking across the street.

Member Jackson responded another perspective from the Planning Commission was some members were interested in the walkable business to the site location, and suggestions were made on how walkers could approach the restaurant, which did lead to the suggestion of additional parking spaces.

Member Stivers asked the applicant the reason for the additional 110 parking spaces.

Mr. Keyes replied the original site plan had 170 parking spaces. The plan now is for a larger anchor restaurant on the east end of the property, and a smaller restaurant with a drive-through on the west end. He added the applicant is looking at two of the units being used for a larger restaurant, which is the reason for additional parking spaces, and on what their Real Estate Agent can market successfully. He stated anything above 100 parking spaces is good, but 110 parking spaces are more desirable for marketing to larger restaurants.

Member Jackson stated the Zoning Board of Appeals (ZBA) is being asked to alter the C2 Zoning District requirements for additional parking space, and she is not comfortable making an adjustment to the ordinance based on the assumption of restaurants using the location.

Chair Beauchine read review criteria seven, which states the conditions pertaining to the land or structure are not so general or recurrent in nature as to make the formulation of a general regulation for such conditions practicable. He questioned whether or not the ordinance needs to be looked at based on the applicant's request for additional parking spaces, however; the township parking requirements are fairly strict, 5.5 parking per 1,000 square feet of space, and the applicant is requesting 9.5 per 1,000 square feet of space. He added the ZBA cannot grant a variance for "use" on proposed future restaurants. He further questioned staff if at one time the total number of chairs and tables was used to calculate parking space for restaurants.

Director Kieselbach replied there are two calculations for standalone restaurants only, and not a multi-tenant building, which may or may not have several restaurants. One calculation is based on the useable floor area plus one for every four seats in a restaurant, and another is at 37.5 square feet per useable floor area. The calculations are done using both methods, and whatever is the most is the figure used for determining parking spaces. He stated the useable floor area in a restaurant where patrons will be seated or served is used. He added if it is an allowed "use" it does not restrict the "use," and the ZBA is being asked for a request based on an unknown "use" at this time. However, the ordinance is written to cover general standards.

Member Jackson asked Mr. Keyes about the vertical lines on the site plan, and wondered if the lines are an indication of the number of individual suites.

Mr. Keyes replied those areas are set up for suites. There are six suites which could be combined into one larger area, and there has been an expressed interest for a restaurant food service business on this site.

Member Stivers questioned as she was looking at review criteria one, could the parcel to the east be zoned C2 too, and she wondered if in the future could there be a potential for other restaurants to want to build there requesting a variance for additional parking spaces.

Chair Beauchine replied only if it is a restaurant.

Member Stivers stated the applicant is planning already for more restaurants to this site. She questioned the potential for others to want to put restaurants on the parcel to the east.

Member Rios restated the ZBA is only looking at the case being presented.

Member Jackson replied she also wanted to emphasize the same point as member Rios, and also remind the ZBA of the fact the ZBA is working with a C2 zoning district, and not a restaurant zoning district.

Member Stivers replied her point is that this circumstance could apply to some other C2 zoned areas as well and should it be addressed now.

Member Jackson commented, Mr. Keyes talked about other C2 zoning areas in strip malls with restaurants, which also have C2 zoning district that does not require additional parking spaces.

Member Lane added the circumstance which is being offered is if the building is used for a restaurant there will not be enough parking spaces, does this create a unique circumstance which fits into the review criteria.

Member Jackson questioned staff on Commercial Planned Unit Development (Commercial PUD) and asked if it is attainable.

Director Kieselbach replied yes.

Member Jackson questioned if the subject site is developed as a restaurant focused site under a Commercial PUD, could the problem be resolved.

Director Kieselbach stated under a Commercial PUD; the Planning Commission would review it first and make a recommendation, then the Township Board has the ultimate authority on it. The Board can waive setbacks, parking requirements, and can put restrictions on the type of use and base the parking on the specific use. However, in this case, it was only the drive-through window which required a special use permit. Without the drive-through window, the 12,000 square foot building would have been approved by right, whether as a standalone restaurant or a multi-tenant structure. He added without a specific use, the staff looks at how it is shown, and the subject site is shown as general retail, and that is how the parking spaces have been calculated.

Member Jackson stated her point to the questioning is if built with a particular type of use getting a variance for the amount of parking space the applicant is asking for is not the only way the applicant can approach it.

Chair Beauchine replied yes, and asked what review criteria would her line of questioning fall under.

Member Jackson replied it would fall under review criteria five, which states' granting the variance is the minimum action that will make possible the use of the land or structure in a manner which is not contrary to the public interest and which would carry out the spirit of this zoning ordinance, secure public safety, and provide substantial justice. She stated based on the line of her questioning; this is not a true statement.

Member Stivers asked about the spirit of the zoning ordinance and questioned the purpose of the ratio of parking spaces to the square footage of a building, or is there an environmental concern which limits the number of parking spaces.

Member Jackson stated the purpose is to fit all C2 type uses and to meet the needs required for C2 structures and uses.

Chair Beauchine questioned staff about the restrictions which would prevent the applicant from paving a larger portion of parking spaces and not striping the spaces.

Director Kieselbach replied he would ask what the use is. If, it is not there for a particular purpose such as parking, then what is the use? The ordinance has a minimum and maximum required, to pave an area for parking is not the intent of the ordinance. Also, the site plan would not be approved without a use for the paved area.

Chair Beauchine asked what guidelines are there to prevent the applicant from converting a standalone restaurant structure to a multi-use structure.

Director Kieselbach replied a "change of use." The request opens it up for staff to review, and then parking calculations would be reviewed again.

Member Jackson read review criteria one, which states unique circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district. She said the only unique circumstance she sees is the request for more restaurants than anything else.

Member Stivers stated the request could become more frequent due to economic conditions and retail purchases being purchased online over instore purchases could create frequent visits to brick and mortar locations for food purchases. She added perhaps the Planning Commission should review the request for more parking spaces in general for new construction sites.

Chair Beauchine opened the floor for public remarks.

Amanda Hopper, 5485 Martinique Circle, East Lansing, replied the reason for the variance request is to make the subject site more marketable for larger restaurants, which are requiring at least 100 parking spaces. She added when the ordinance was first instituted; she believes it was a control issue and should be reconsidered due to the restriction it creates in new construction for commercial properties.

Member Stivers commented that Ms. Hopper is saying the site cannot be used for its permitted "use," because businesses require more parking spaces and questioned how the ZBA addresses this issue.

Member Jackson stated what she heard was Ms. Hopper indicated no restaurants want to be there. Member Jackson added in a C2 zoning district with a multi-tenant building; there are many other options for business to be located at the subject property site. She stated the marketability issue is not a problem for the ZBA to address.

Member Lane added he is a supporter of the project, but the best way to get additional parking space can be either through a Commercial PUD or an ordinance amendment. He added with the site plan as a conceptual idea he is unable to match the request to the review criteria, especially when there are other ways to get the additional parking space requested.

Member Stivers replied based on review criteria one; there are no unique circumstances which exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district. She added criteria five is also not meet, as the land is still usable without the variance.

MEMBER STIVERS MOVED TO DENY THE VARIANCE REQUEST SECTION 86-755.

MEMBER LANE SECONDED.

Chair Beauchine stated the ZBA believes there are other options for the applicant; the Commercial Planning Urban Development is one if the applicant would like to continue with the project.

ROLL CALL VOTE: YES: Members Stivers, Jackson, Lane, and Chair Beauchine.

NO: Rios

Motion carried 4:1.

G. OTHER BUSINESS

H. PUBLIC REMARKS

Chair Beauchine opened the floor for public remarks, seeing none, closed public remarks.

I. BOARD MEMBER COMMENTS

J. ADJOURNMENT

Chair Beauchine adjourned the meeting at 7:20 p.m.

K. POST SCRIPT – Chair Beauchine

Respectfully Submitted,

Rebekah Lemley
Recording Secretary