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Office of the City Clerk

BOARD OF APPEALS
Thursday, May 2, 2024
6:00 PM
Christine Nuernberg Hall

Minutes

1) Call to Order

Chairman Massey called the meeting to order at 6:00 PM.

Present:

Chair Kathleen Massey
Board Member Thomas Flanagan
Board Member Ramona Larson
Board Member Robert Stern
Board Member Steve Helfer
Board Member Kirsten Hildebrand -- **Excused**

Also present: City Attorney Brian Sajdak, City Clerk Caroline Fochs, Community Development Director Tollefson, Associate Planner Hoier, and interested public.

2) Approve meeting minutes of January 4, 2024

Discussion between City and Ozaukee County to review the building code implications from the January meeting is planned for July.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Board Member Massey
SECONDED BY: Board Member Helfer

AYES:	Massey, Larson, Helfer
ABSTAIN:	Flannagan, Stern

3) Hear evidence concerning; debate, deliberate and decide the request of:

- a. Applicants: Tracy & Mike LaLonde
- Owners: Tracy & Mike LaLonde
- Appeal: Opportunity will be afforded to all interested in being heard concerning the petition by Tracy & Mike LaLonde appealing the February 19, 2024

Planning Commission's building and site plan amendment approval to allow for a renovation for office use at 6714 W. Mequon Road.

Hearing no objection, Chairman Massey opened the public hearing, stated the administrative appeal and the process.

All parties appearing before the Board of Appeals were sworn.

Community Development Director Tollefson stated that staff does not find that the appellant's application provides any evidence of an error by Planning Commission at the February 19, 2024 meeting.

Associate Planner Hoier addressed each condition the appellant wanted to appeal with the appropriate Mequon Code: 1) Code 58-564(e)(2) and 58-564(e)(1) requires a 6 foot fence along the east property line, 2) Code 58-564(e)(1) requires the installation of tall bushes or hedges on the north side of the building, 3) Code 58-564(a) requires the installation of street trees along the driveway to the parking lot, 4) Code 58-605(e) allows Planning Commission to deny street connections where the effect would encourage the use of such streets by substantial through traffic. If a driveway to 6720 W. Mequon Road is installed on River Birch Drive the City can deny the driveway connection from 6720 W. Mequon Road and 6714 W. Mequon Road, and 5) Code 58-605(e) gives Planning Commission the authority to restrict access to River Birch Drive to the north. Staff confirmed that the property to the western side of the subject property is a different property and zoned C-2 Conservancy and that recently a large amount of deciduous trees have been cut down. In addition, Planning Commission allowed public testimony on this issue in February and the neighbors received the appropriate notice.

Chairman Massey read into the record as Exhibit 1 the six letters/emails from residents filed with City staff regarding this appeal. While neighboring resident's comments are taken into consideration, the Planning Commission makes their own recommendations. The parking lot needs to be widened to allow for two-way roadway which would in-turn require street trees. City staff is unaware of the current status of the ongoing dispute between the appellant and the adjacent Home Owners Association (HOA) regarding trespassing and the unauthorized removal of trees from the HOA's property.

Appellant Mr. LaLonde clarified that the on-going litigation concerns the north edge of his property, the land adjacent to 6720 W. Mequon Road. Quotes were received to re-screen. He removed most of the trees on his property. The commercial building has been there for years prior to his purchasing it. It is positioned between two of his properties and not on a thoroughfare. There are no residences north of this building since it is a conservancy. Residents live to the east and west. His solution was a natural barrier of arborvites spaced along the lot line. There is a small plot of land that belongs to the HOA that he proposes to plant part of this natural barrier. Mr. LaLonde further stated that he opposes the Planning Commission's insistence on fencing and shrubbery along the lot line. He does not want to surrender any of his property in order to save more trees when erecting a fence. Any fence would be placed on the lot line and undoubtedly more trees would need to be removed.

Since he owns the house behind him he does not feel that he should be forced to "screen" himself. These resources could be put towards rectifying the bigger issues. He continued to state that the driveway to 6720 W. Mequon Road is not a roadway and therefore he should not be required to plant street trees. He stated that there is a legal easement between 6720 W. Mequon Road and 6714 W. Mequon Road and he should not be required to surrender that.

Discussion ensued. The Board went through each Planning Commission condition that the appellant is challenging. These include the fencing along the east property line, the hedges along the north side, street trees along the driveway to the parking lot, removal of the condition to severing access to 6720 W. Mequon Road if the driveway to 6720 W. Mequon Road is installed on River Birch Drive. Mr. LaLonde argued that it is a private drive and not a roadway and thus Code 58-564(a) does not apply, nor does the Planning Commission have the authority to require the connection. His appeal concerns 6714 W. Mequon Road not 6720 W. Mequon Road.

Further discussion ensued on the access to River Birch Road. Mr. LaLonde stated that he owns both 6714 and 6720 W. Mequon Road. 6714 is a commercial property. Being the owner he can reduce or eliminate the access point to River Birch Road. 6720 is a tenant-occupied residential property that has a legal right to the access point to River Birch Road. There is no paved access to River Birch Road at this time. He owns all three buildings. Ms. Tollefson explained that with the conversion of 6714 W. Mequon Road into a new commercial business, the Planning Commission did not want to see commercial traffic traveling across a single-family lot and entering onto a residential, local street in a residential neighborhood from River Birch. Five offices are planned at 6714 W. Mequon Road. Hours of operation could be later than 5:00 pm depending on the clientele. Under State statutes the City has the right to control the egress from 6714 W. Mequon Road. There is no indication that the City is taking away any of his easements.

The following residents spoke against Mr. LaLonde's appeal: Dave Schaefer, Paul Reinholz, Dave Boerke, and Archie Shew.

The subject building is very visible, citing the change of use to a multi-use business could result in more light pollution and more traffic, the insufficiency of trees to screen car lights, the fence condition should remain, extension of the fence further south would be acceptable to the River Birch HOA, landscaping is needed around the patio for privacy, street trees along driveway are needed to restore the aesthetics of the property, agrees severing the driveway to the north is correct, there is also increased noise pollution, the lack of vegetation is unsightly, the current screening is nonexistent since the trees were either trimmed up or cut down, neighbors wish to maintain their property values.

Mr. Reinholz confirmed that the lawsuit is on-going and the River Birch HOA has not agreed to accept trees on their part of the lot line. Mr. Boerke agrees with Mr. LaLonde's opinion that screening is the most important issue to be addressed.

David Neel opposed but declined to speak.

Mr. LaLonde clarified that he only removed trees on his side of the east lot line and afterwards the Home Owners Association cleared the low vegetation on their side of the property line. Both of these actions opened up the sight lines immensely. He admitted trimming up six trees on the north property line in error. The reason to cut trees was to be able to access the power lines that cross his property.

Finally, Ms. Tollefson stated that when an access is being used for a commercial use that is open to the public it is no longer considered private. These requirements are conditions of an application made by the appellant to use the property as a commercial use. These are the minimum standards by the code that any development needs to meet. The site plan is in place for perpetuity as long as commercial development occurs. Any changes need City approval.

Motion to close the public portion of the hearing.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Board Member Stern
SECONDED BY: Board Member Flanagan

AYES: Massey, Flanagan, Larson, Stern, Helfer
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Board discussion ensued.

- The subject property currently looks very rough and barren.
- There are different ways to resolve this.
- The Board's role is to rule on law.
- The Board must consider all oral and written testimony.
- Planning Commission had the authority to levy conditions.
- Mequon is not taking any easement away from the appellant.
- The City weighed the impact of noise pollution, traffic, safety of neighboring residents, and egress/ingress to property.
- The Planning Commission acted without error.
- The Planning Commission approval conditions are reasonable.
- Traffic will be increased on the property by the nature of its use.
- Neighboring residents have the right to be shielded.

Motion to deny the appeal to remove and revise conditions of the building and site plan approval on February 9, 2024.

RESULT: **Approved by Roll Call Vote [Unanimous]**
MOVED BY: Board Member Flanagan
SECONDED BY: Board Member Massey

AYES: Massey, Flanagan, Larson, Stern, Helfer
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4) Adjourn

Motion to adjourn at 7:53 PM.

RESULT: **Approved by Voice Acclamation [Unanimous]**

MOVED BY: Board Member Helfer

SECONDED BY: Board Member Stern

AYES: Massey, Flanagan, Larson, Stern, Helfer
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Respectfully Submitted,
Kathy Andrykowski
Deputy Clerk