

MINUTES AS RECORDED

**MINUTES OF THE MEETING OF July 21, 2010
ZONING BOARD OF APPEALS AND ADJUSTMENT**

A meeting of the Zoning Board of Appeals and Adjustment of the City of Wyandotte was called to order by Chairperson Duran at 6:30 p.m., in the Council Chambers of the City Hall, 3131 Biddle Avenue, Wyandotte.

MEMBERS PRESENT: DiSanto
Duran
Gillon
Green (alternate member)
Nevin
Trupiano

MEMBERS ABSENT: Alderman, Cusson, Lapp, Olsen

ALSO PRESENT: Peggy Green, Secretary

A motion was made by Member Nevin, supported by Member Trupiano to approve the minutes of the June 2, 2010, meeting. *with correction to the minutes to approve the meeting of May 5, 2010, minutes (it was stated in the minutes to approve the June 2 minutes).

Yes: DiSanto, Duran, Gillon, Green, Nevin, Trupiano

No: none

Abstain: none

Absent: Alderman, Cusson, Lapp, Olsen

Motion passed

#3111 - GRANTED

Newton Investment Company, Gilbert Rose, 2944 Biddle, Wyandotte (owner & appellant)

for a variance to obtain a Certificate of Occupancy to provide no off street parking at 3005 – 1st Street (legal description on file) in a CBD zoning district, where the proposed conflicts with Section 2403.R.1.a of the Wyandotte Zoning Ordinance.

SECTION 2403.R.1.a:

Requires a minimum of four (4) off street parking spaces for four (4) units of dwellings. Proposed apartments in a CBD District would have no off street parking spaces provided. Note: Off street parking on site is not required for other uses except residential, per Section 2403.P.1.

Proposed off street parking will be a harmonious part of the district in which it is situated and will not be objectionable to nearby dwellings, by reason of noise, fumes or flash of lights to a greater degree than is normal, and does not impair the intent of the ordinance.

A motion was made by Member DiSanto, supported by Member Trupiano to grant this appeal.

Yes: DiSanto, Duran, Gillon, Green, Nevin, Trupiano

No: none

Abstain: none

Absent: Alderman, Cusson, Lapp, Olsen

Motion passed

#3112 - GRANTED

Home Base Inc., 4141 Dix, Lincoln Park, Michigan (appellant) and Charles & Alice Whitmore, 939 Sycamore, Wyandotte (owner)

for a variance **to obtain a zoning permit for new conforming off street parking at 939 Sycamore** (Lots 25 & 26, Charles H. Block Sub.) in a RA zoning district, where the proposed conflicts with Section 2401.E.4 of the Wyandotte Zoning Ordinance.

SECTION 2401.E.4:

Which states, "Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which structure is located, and the nonconforming use may not thereafter be resumed." The applicant proposes to construct new conforming off street parking in addition to continuing to use the existing nonconforming front yard parking.

Proposed off street parking will be a harmonious part of the district in which it is situated and will not be objectionable to nearby dwellings, by reason of noise, fumes or flash of lights to a greater degree than is normal, and does not impair the intent of the ordinance

A motion was made by Member Gillon, supported by Member Trupiano to grant this appeal.

Yes: Duran, Gillon, Green, Nevin, Trupiano

No: DiSanto

Abstain: none

Absent: Alderman, Cusson, Lapp, Olsen

Motion passed

*First motion was made by Member DiSanto to deny this appeal, however, it was not supported by a member.

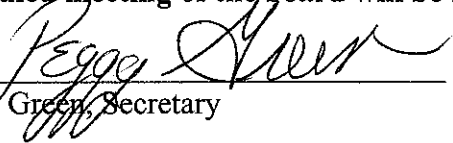
COMMUNICATIONS:

A motion was made by Member DiSanto, supported by Member Gillon, to place all communications on file. Motion carried.

OTHER BUSINESS:

none

There being no further business to discuss, the meeting adjourned at 7:15 p.m. **The next scheduled meeting of the board will be held on August 4, 2010.**


Peggy Green, Secretary

Appeal #3111

Chairperson Duran read the appeal and asked that it be explained.

Gilbert Rose, 2894 VanAlstyne, present.

Mr. Rose explained that he is a partner with Newton, owner of the Willow Tree. This project is to turn the second floor (former Barry & Company) into four very nice high end apartments. Mr. Rose continued that the project will be very nice. They will be investing about \$300,000. The problem is there is no parking, the building occupies the entire space. The variance is essential, or they cannot proceed.

Chairperson Duran asked if anything was leased yet. Mr. Rose replied no. They anticipate 4 different groups of people living there. There are currently 2 – 2 bedroom, and 2 – 1 bedroom apartments, but they believe by the time they are under construction there will be 4 – 2 bedroom units. Mr. Rose explained the apartments and they will rent from \$800 - \$900 per month. Mr. Rose added that he put a couple of temporary signs in the upper window, you can barely read them, but every week he is getting 2 or 3 calls from people wanting to rent.

Mr. Rose continued that you cannot rent 2nd floor retail space, it is no longer viable. Apartments are in demand. Mr. Rose added that they have an apartment at 3029 – 1st Street, have owned it for 30 years, and there has never been a vacancy for a single day, the tenants have been quality people.

Member Nevin asked how are they going to accommodate the parking. Mr. Rose replied that no one who has called has asked about the parking. What typically happens with the one apartment they are renting, they send them to city hall to get some type of waiver, he is not sure of the nature of the waiver, but they either park on the street or the municipal lot on the west side of First Street.

Mr. Rose stated that there has never been a problem with parking. They are retailers and depend on the parking for their store. Mr. Rose added that there is no way he can provide parking.

Chairperson Duran read the resolution that was passed by the Planning Commission allowing the 4 apartments.

Member DiSanto asked the square footage of the second floor. Mr. Rose replied 4000 square feet gross, 3800 internal. Member DiSanto commented that there would probably be 8 cars maximum, but if a business was opened, there would be a lot more cars. Businesses are exempt from parking, but they generate more parking.

Member Gillon complimented Mr. Rose on the plans and added that parking is a trade off living in the downtown area and feels that this project is excellent for the area.

Member Trupiano commented that Mr. Rose always has his heart in the City.

One (1) communication from DTE was received regarding this appeal.

Appeal #3112

Chairperson Duran read the appeal and asked that it be explained.

Chairperson Duran explained that previously the Board had approved front yard parking (Appeal #3107, April 21, 2010).

Todd Dotson, President, Home Base present.

Mr. Dotson explained that he felt that the main reason the parking was granted before was because the mother was moving in, and was ill, and someone on the Board asked if the homeowner planned on installing conforming parking at a later date, and they said they were when they had the money to do it. They were in the process of finishing the job, and the mother said that she would contribute some money if they wanted to put in the conforming parking. Mr. Dotson continued that he secured the permit and called for a building inspection. The Building Inspector (Claude Marcoux) told him that he would approve it for pouring, but not approve the pouring of the approach, because it was expanded and needed approval from the City Engineer. Mr. Dotson continued that he went to speak to the Assistant City Engineer and he said that it cannot be allowed and asked if the Board allowed nonconforming parking, why is he doing this now. Mr. Dotson said that he tried to explain, and felt that maybe it was a lack of language at the last meeting and there was confusion.

Member Gillon commented that the way he is reading this is that when you have a nonconforming use and you add the conforming, the nonconforming use is no longer allowed to exist without a new appeal and approval.

Member Trupiano commented that he feels the intent of the code is related more to building modifications.

Mr. Dotson stated that they did pour the conforming part, but did not pour the approach.

Member Nevin commented that back in April, the paperwork did show an additional slab to be poured next to addition to park RV.

Mr. Dotson commented that the whole project has turned out nice, except for the dirt spot they are waiting to pour if approved.

Member Nevin and Mr. Dotson stated that he (Assistant City Engineer) indicated that before a decision would be made about the curb cut, he wanted this issue resolved, you are allowed 20' but with the additional approach, they will be over that. Mr. Dotson commented that by added the approach, the project will look balanced.

Mr. Dotson commented that a concern of increasing the approach size was taking away parking, but this is a dead end street and everyone has driveways, so that would not be an issue.

Mr. Dotson stated that he is pretty confident that the engineers will allow the approach if they can keep the nonconforming along with the conforming parking.

Chairperson Duran asked if they were going to use the nonconforming parking along with the driveway. The owner was in the audience and responded yes.

Chairperson Duran stated that it was a little confusing if the nonconforming parking could still exist if the other was approved. Mr. Dotson stated that he believed if the nonconforming was approved with the existing, it was all approved.

Member DiSanto referred Ordinance to non conforming use is superseded by a permissible use, the area that is added is larger than what is existing, in his opinion since a variance was granted and it would not change in size, it would carry forth, but he does not agree with anything here anyways. If you read the Ordinance refers to structure, and read the definition of structure in the ordinance, it says except for driveways and pavement. Member DiSanto commented that he does not agree with a 30' approach.

Member DiSanto asked if the 13' came down to the sidewalk. Mr. Dotson replied yes. Member DiSanto asked if a 30' approach was needed. Mr. Dotson replied yes, if they are using the nonconforming parking. Member DiSanto commented that most of the front yard is concrete.

Mr. Dotson commented that the homeowners don't want to make waves, they just want to find out what they have to do and do it. It will be difficult to use the parking without the additional approach.

Member Nevin and Mr. Dotson discussed the RV. Mr. Dotson stated that they just pull it in to load and unload. They do not plan on parking it there, they pay for storage.

Member Gillon read the letter that Mr. Mayhew sent to the homeowner, and the variance is to have both.

Member Gillon asked if parking blocks were going to be installed. Mr. Dotson replied no, the addition is 3 to 4 blocks above grade, but parking blocks would not be a bad idea.

Member Trupiano stated that they are not voting on the parking along the side, they are voting on maintaining the nonconforming parking that was there. Member Trupiano asked about the RV, his concern was them parking the RV on that side. Mr. Dotson stated that won't happen.

One (1) communication from DTE was received regarding this appeal.

MOTION PASSED

3. PUBLIC HEARING – PC#224 – Request from Dotte Pub, 116 Oak Street, Wyandotte for a Certificate of Occupancy for an Outdoor Café at 116 Oak Street, Wyandotte, in a CBD Zoning District

MOTION BY COMMISSIONER TAVERNIER, supported by Commissioner Eberts that the Certificate of Occupancy for an Outdoor Café at 116 Oak, be hereby approved contingent on City Council approval on the basis of the following reasons:

The proposed outdoor café complies with all ordinance requirements or will comply with said requirements and the conditions below prior to use as an outdoor café. Further, during the public hearing for this application, there were no objections to the proposed project.

Said approval is subject to the following conditions:

1. The outdoor café is subject to all conditions applicable to an outdoor café on private property in the Central Business District (CBD) Zoning District, Section 2200.S.1 of the City of Wyandotte's Zoning Ordinance. The applicant is responsible for carefully reviewing, understanding and complying with the requirements of the ordinance.
2. If alcoholic beverages are served, the current Michigan Liquor Control Commission rules and regulations shall apply, and the applicant shall obtain all necessary approvals.
3. Compliance with all Police, Fire and City Engineer requirements attached, in minutes.
4. Use of the outdoor café shall be allowed from 11 a.m. to 12 midnight from March 15 through October 31.
5. The outdoor café shall comply with all applicable laws and regulations of the City, County, and the State.
6. Umbrellas to have name of establishment on the drip-tee only, no logo's for products.
7. Fence detail to be the same as Belicoso Café, 3030 Biddle Avenue, Wyandotte.
8. Table detail to be the same as Belicoso Café, 3030 Biddle Avenue, Wyandotte.
9. Approval by City Council for use of the public property is required.

YEAS: Duran, Eberts, Krimmel, Lupo, Parker, Schultz, Tavernier

NAYS: None

ABSENT: Hovis and Rockershausen

MOTION PASSED

4. PUBLIC HEARING – PC#225 – Request from Newton Company (Appellant and Owner) for a Certificate of Occupancy for four (4) apartments on the 2nd floor at 3005 1st Street, Wyandotte, in a CBD Zoning District where proposed conflicts with Section 2403.R.I.A. the Zoning Ordinance.

MOTION BY COMMISSIONER SCHULTZ, supported by Commissioner Lupo that the Planning Commission approves the Certificate of Occupancy for four (4) apartments on the 2nd floor at 3005 1st Street from Newton Company (Owner and Appellant) provided the plans indicate a fire door, 1 hour stairwell rating, 2 hour floor/ceiling separation, sprinkler system which is to be approved by the Engineering and Building Department. Further this approval is subject to the approval of the resolution of the parking issue

YEAS: Duran, Eberts, Krimmel, Lupo, Parker, Schultz, Tavernier

NAYS: None

ABSENT: Hovis and Rockershausen

MOTION PASSED

Planning Commission
July 15, 2010
RE: 3005-1st
ZONING APPEAL #3111

OFFICIALS

William R. Griggs
CITY CLERK

Andrew A. Swiecki
CITY TREASURER

Colleen A. Keehn
CITY ASSESSOR



MARK A. KOWALEWSKI, P.E.
CITY ENGINEER

#3112

MAYOR
Joseph R. Peterson

COUNCIL
Todd M. Browning
James R. DeSana
Sheri Sutherby Fricke
Daniel E. Galeski
Leonard T. Sabuda
Lawrence S. Stec

June 3, 2010

Mr. Todd Dodson
Home Base Improvement
4141 Dix
Lincoln Park, Michigan 48146

RE: 939 Sycamore
Wyandotte, MI

Dear Mr. Dodson:

Upon review of your permit application for a driveway, driveway approach and curb cut at the referenced address, the following applies.

The application is hereby denied until:

- a. The existing concrete parking slab, approach and curb cut are removed and a full height curb installed, or;
- b. A variance is received from the Zoning Board to have both front yard parking and conforming off street parking.

Kindly take the necessary action to resolve this situation. Be advised that until resolved the new work is not approved and the property is in violation of the City of Wyandotte's Zoning Ordinance.

If you have any questions, kindly contact the undersigned at 734-324-4558.

Very truly yours,


Gregory J. Mayhew
Assistant City Engineer

Cc: Charles Whitmore, 939 Sycamore, Wyandotte, MI
Address File
Time File: August 3, 2010

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DTE Energy



July 7, 2010

Peggy Green, Zoning Board Secretary
Zoning Board of Appeals and Adjustment
3131 Biddle Avenue, City of Wyandotte
Michigan 48192

RE: Notice of Public Hearing (Appeal #3112): Variance to obtain a Zoning Permit for new conforming off street parking at #939 Sycamore, in a RA Zoning District.

- Not involved. See Remarks!
- Involved: but asking you to hold action on this petition until further notice.
- Involved but have no objection to the property change -- provided that an easement of the full width of the public right-of-way (street, alley or other public place) is reserved.
- Involved: the nature of our services, and the estimated costs of removing, rerouting or abandonment of such all gas mains and/or services

REMARKS:

DTE Energy-MichCon Gas Company has no involvement, nor objection to the Public Hearing Appeal #3112. See enclosed strip print and attached notice of public hearing, for your use and information.

Please abide by Public Act 53, three (3) working days before you dig, dial toll free MISS DIG at: 1-800-482-7171.

Michcon Gas Leak Emergency Phone Number: 1-800-947-5000.

Sincerely,

Eddie A. Reyes
Senior Drafter

Data Integrity and Technology

EAR/
Enclosure

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DTE Energy



July 7, 2010

Peggy Green, Zoning Board Secretary
Zoning Board of Appeals and Adjustment
3131 Biddle Avenue, City of Wyandotte
Michigan 48192

RE: Notice of Public Hearing (Appeal #3111): Variance to obtain a Certificate of Occupancy to provided no off street parking at 3005 – 1st Street, in a CBD Zoning District.

- Not involved. See Remarks!
- Involved: but asking you to hold action on this petition until further notice.
- Involved but have no objection to the property change -- provided that an easement of the full width of the public right-of-way (street, alley or other public place) is reserved.
- Involved: the nature of our services, and the estimated costs of removing, rerouting or abandonment of such all gas mains and/or services

REMARKS:

DTE Energy–MichCon Gas Company has no involvement, nor objection to the Public Hearing Appeal #3111. See enclosed strip print and attached notice of public hearing, for your use and information.

Please abide by Public Act 53, three (3) working days before you dig, dial toll free MISS DIG at: 1 – 800 – 482 – 7171.

Michcon Gas Leak Emergency Phone Number: 1- 800 – 947 – 5000.

Sincerely,

Eddie A. Reyes
Senior Drafter
Data Integrity and Technology

EAR/
Enclosure