

**: OFFICIAL PROCEEDINGS :****: OF THE CITY OF PEORIA, ILLINOIS :**

A Zoning Board of Appeals Meeting was held on Monday, June 20, 2011, at approximately 1:32 p.m., City Hall, 419 Fulton Street, Council Chambers, Room 400, with Chairperson Barry presiding.

**ROLL CALL**

The following Zoning Board of Appeals Commissioners were present: Chairperson Barry; and Commissioners Blackwell, Ierulli, Jerry D. Jackson, Kouri, and Wagner – 6. Absent: Commissioner Ernestine Jackson – 1.

Staff Present: Gene Lear and Polly Stainback

Chairperson Barry explained the meeting procedures, and Ms. Stainback administered the swearing in for testimony.

**MINUTES**

Commissioner Blackwell moved to approve the minutes of the meeting held on May 12, 2011, as printed; seconded by Commissioner Wagner.

Approved unanimously by viva voce vote.

**ZBA 2938**      **Petitioner Bradley A. Ward, for Kentucky Fried Chicken, is requesting a variance from the City of Peoria Zoning Ordinance, Article 15.2.b.(1), Off-Street Parking, Specific Requirements, to reduce the required off-street parking to 30 parking spaces instead of 34. The property is located at 2231 W. Glen Avenue in the C-1 General Commercial District.**

Chairperson Barry announced Case No. ZBA 2938 and asked Mr. Lear to read it into the record.

Commissioner Blackwell indicated that he knows the owner of the subject property but does not think it would have an effect on the decision-making process.

Gene Lear, Senior Urban Planner, Planning and Growth Management Department, explained he would share detailed background information because of the fact this proposed project will involve a total demolition and rebuild of the subject site. Mr. Lear reported the following detailed background information:

**BACKGROUND:**

Petitioner Bradley A. Ward, for Kentucky Fried Chicken, is requesting a variance from the City of Peoria Zoning Ordinance, Article 15.2.b.(1), *Off-Street Parking, Specific*

*Requirements*, to reduce the required off-street parking to 30 parking spaces instead of 34. The property is located at 2231 W. Glen Avenue in the C-1 General Commercial District. The Petitioner is proposing to demolish the existing restaurant building and totally reconstruct the subject site. The Petitioner will be providing a new building, required landscaped yards, and more parking spaces. The Petitioner is proposing 30 parking spaces. Providing thirty (30) parking spaces will not bring the subject property, as proposed, into compliance with the Zoning Ordinance; but it will be much closer to compliance than the existing site parking.

The proposed required landscaped yards (two transitional buffer yards and required front yard) will be in compliance with the Zoning Ordinance. He indicated that those yards and those issues that will be in compliance with the Ordinance will not be addressed by the Zoning Board of Appeals. The Zoning Board of Appeals will only address the Petitioner's request, which is a variance for the parking itself.

Mr. Lear displayed the zonings of the property and surrounding areas and an aerial of the property. He explained that one building had already been demolished, and the existing restaurant building would be demolished. He displayed the proposed site plan, which showed the new building and parking lot configuration. He explained that the existing parking is right up to the property line in some cases. He further explained that where the site abuts residential property, the Ordinance requires a transitional buffer yard with a landscaping element to include trees and shrubs.

Mr. Lear indicated that the issue is the parking itself. He pointed out that the existing site has 19 parking spaces; and over 30 are required, so the existing site is not in compliance. As proposed, they will be bringing the parking closer to compliance. He stated that upon inspection, he noticed most of the existing parking spaces were not being used. He reported the following SPRB conclusions and recommendations:

#### **SPRB CONCLUSIONS AND RECOMMENDATIONS:**

After reviewing the Petitioner's application and performing a site inspection, Staff feels they cannot give a recommendation to approve the request without more specific evidence being presented as to why the Petitioner is proposing to provide 30 parking spaces, instead of the Ordinance required 34 parking spaces.

Mr. Lear explained that the previous statement was listed before Staff received a revised narrative from the Petitioner, explaining more specifically their hardship or the practical difficulty in providing 34 parking spaces, instead of 30. He said Commissioners had the revised narrative in their packet, so they have the original submittal, in addition to the revised narrative.

Mr. Lear indicated that once Staff received the narrative containing the information stated above, the SPRB could give a recommendation not to object to the variance request for the following reasons:

1. The existing site contains a building of 2,703 square feet which requires per Ordinance, 33 parking spaces. The existing site currently has 19 parking spaces

and is not in compliance with the Zoning Ordinance in terms of parking and required yards. Also, on the existing developed site, a number of parking spaces are not being used, due to the fact that drive-thru activity has increased over the years. The Petitioner is proposing to build a new 2,851 square foot building which requires per Ordinance, 34 parking spaces. The Petitioner is proposing to provide 30 parking spaces, 4 short of the Ordinance requirement, and meet the requirements of the required yards per the Ordinance. If the variance is granted, this would bring the proposed site plan, on the subject property, much closer to compliance with the Zoning Ordinance requirements than the existing developed site.

2. Not granting the parking variance would cause the Petitioner to request a variance in one of the required yards. Since the subject property abuts residential zoning on two sides, it would be more of an advantage for the abutting residentially zoned properties to receive the full required yard depth with landscaping than to have all of the required parking spaces, some of which will not be used.

After receiving the requested evidence as stated above, the Zoning Board of Appeals could in its deliberation find that:

1. A practical difficulty exists in that in order to meet some of the Zoning Ordinance requirements, the Petitioner would need to request a variance for some other zoning requirement on that site, such as the yards.
2. The granting of the variation will not alter, but instead improve, the essential character of the neighborhood.

Referring to the site plan, Commissioner Ierulli questioned if the rectangle at the bottom of the site plan was the dumpster and if the last four parking spaces near the dumpster would be usable. Mr. Lear stated the parking spaces would be available anytime the collection truck is not there; he pointed out the dumpster and its access.

Gary Zumwalt, Engineer, Zumwalt and Associates, Inc., indicated that his firm prepared the proposed site plan. He spoke regarding the existing 19 parking spaces and there being no TBY and that parking on the east side is within a few feet of the property line. He stated that the proposed site plan provides the required yards by Ordinance, i.e., 15 feet on the east side, 13 feet on the northeasterly side, 24 feet on the back, and 20 feet on the front yard.

Mr. Zumwalt said that they were meeting all the yard requirements, landscaping requirements, stormwater detention, and stormwater control requirements, and were only short four parking spaces. He said they provided all the parking they could, with two parallel parking spaces in front of the building. He indicated they would be adding a retaining wall on the west side of the property. He commented that the Petitioner would be providing 30 parking spaces, which is more than adequate because 65% to 70% of the business activity is drive-thru, which is typical of fast food restaurants.

Explaining the practical difficulty, Mr. Zumwalt stated that to meet the parking space requirement, they would have to have a variance for the yard requirements. He said

they feel it would be a better situation for the adjoining residential area if they met full yard depths with this plan than to have the four parking spaces.

In discussion with Commissioner Blackwell regarding parking availability if the 30 parking spaces were taken, Mr. Zumwalt explained that in the layout they have a drive-up lane and a bypass lane. He stated that the only other ability to park would be in the bypass lane. He commented that customers who park in the 90-degree parking in front could exit back out the two-way approach on the east side of the site. He said the westerly approach is strictly an exit.

Mr. Zumwalt concurred with Commissioner Blackwell that drivers would not pull up in a neighbor's driveway and there would not be parking on the street.

Mr. Lear commented that sometimes the median forces people onto Ronald Road and they may pull up into someone's driveway. He said this project would be improved by the fact that the median would be eliminated.

Mr. Zumwalt indicated that he had meetings with City Staff, and Public Works has agreed with the removal of the median. He said the site plan shows the median taken out all the way down to Ronald Road.

Referring to the question about the dumpster, Mr. Zumwalt explained that the rectangle up front is the concrete impact slab and is not part of the actual dumpster itself.

Chairperson Barry asked the height of the retaining wall. Mr. Zumwalt indicated that the proposal is for a six-foot high retaining wall. Mr. Lear stated the six-foot high retaining wall would be an issue for the SPRB and said he would discuss that with Mr. Zumwalt.

Ms. Stainback swore in Mr. Gagarin.

Paul Gagarin, neighbor, indicated that he lives due south of the subject property. He asked if the extra space not used for the four parking spaces would be used at the new building.

Mr. Lear reiterated that with this project, there would be a total demolition of the site. He explained that four additional parking spaces would not be provided. He said that with this site, the new building would be slightly larger than the existing building, which will be demolished; and there would be more parking than exists currently.

Mr. Gagarin stated that the landscaping seemed to be inadequate for stopping litter from going on adjacent properties. He questioned if the new landscaping would be adequate to prevent possible trespassing on adjacent properties.

In discussion with Mr. Gagarin, Mr. Lear referred to the displayed site plan and pointed to the yards which are called transitional buffer yards, which abut an area of activity, such as a drive isle or parking lot. He explained that within the transitional buffer yards, the Petitioner would have to provide a substantially screened six-foot buffer, which can

be a fence or landscaping. If landscaping is used, it must grow to at least six feet within two years and must be substantially screened so no one can see through it.

Mr. Lear explained there is a point system for landscaping, which has to be provided within that yard. He said if landscaping is used, it would have to be six feet and year-round screening, more than likely some type of conifer or other type of evergreen. If a fence is used, the fence would not be located back along the property line but immediately adjacent to the area of activity. If a privacy fence to achieve the substantial screening, it would need to be placed adjacent to the area of activity. He stated that in addition to a fence, they would still need to provide landscaping because of the point system within the yard. They are not required to provide a fence, but a fence could be included with the landscaping. That is not an issue for the Zoning Board of Appeals; they are only addressing today the request for a variance for the parking.

In discussion with Mr. Gagarin regarding if landscaping and a fence or either one had been confirmed yet, Mr. Lear said that the Petitioner has to provide landscaping in those yards; but the substantial buffer screening part of that requirement can be done either with landscaping or a fence.

Ms. Stainback swore in Ms. Husby.

Linda Husby, neighbor, stated that Mr. Gagarin was her neighbor. She said his property is behind Kentucky Fried Chicken; and her property is next to Mr. Gagarin's property on the left. She expressed concern regarding litter and did not know if there is an ordinance about this buffer. She mentioned that a fence would stop a lot of the litter. She commented that she picks up a lot of litter from all the businesses in that location, and it would be great if they would provide a fence and landscaping.

Mr. Lear indicated that he talked with the Petitioner about a fence, but that has nothing to do with the Zoning Board of Appeals. He suggested to the Petitioner that there needs to be a neighborhood meeting. He said the Petitioner indicated to Staff that they are going to meet all the other requirements of the Ordinance. He said it is not required that they provide a fence, but they still have to provide a six-foot substantial buffer to screen the parking lot. They could provide a fence or something else to keep litter from the neighborhood property.

Ms. Husby said a fence would also keep people from coming into her yard. She said a burglar at KFC tried to climb over her fence; so with the way crime is today, she would like both landscaping and a fence to be provided.

Chairperson Barry encouraged Ms. Husby to get with the Petitioner regarding her concerns.

There being no more testimony, Chairperson Barry closed the public testimony.

**DELIBERATION:**

Chairperson Barry administered the Findings of Fact.

Commissioner Blackwell stated that a hardship does exist because they are land locked and only have a certain amount of land. Commissioner Ierulli disagreed.

Other comments regarding a hardship were as follows:

- The property in question could yield a reasonable economic return without the requested variance.
- Per Commissioner Ierulli: The conditions upon which an application for the variance sought are not unique to the property and are applicable to other property within this same zoning district.
- The purpose of the variance is based primarily upon a desire to increase financial gain.
- Commissioner Blackwell stated the hardship is not self-created. Commissioners Ierulli and Jerry D. Jackson stated that the hardship is self-created.
- The granting of the variance would not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.
- The granting of the variance would not alter the character of the neighborhood.
- The granting of the variance would not impair an adequate supply of light and air to adjacent property, nor increase the danger of fire, nor impair natural drainage, nor create drainage problems on adjacent properties; and would not endanger the public safety, nor diminish, nor impair the property values within the neighborhood.
- The proposed variation is not consistent with the Comprehensive Plan and other development codes and regulations of the City.

**MOTION:**

Commissioner Wagner motioned to grant the variance. The motion was seconded by Commissioner Jerry D. Jackson.

Commissioner Blackwell stated that listed in Staff's recommendation, it is one or the other, i.e., reduce the yards or reduce the parking, which is the lesser of the two. He stated it could be a smaller building. Chairperson Barry said it is not necessarily a unique hardship in that the building could be sized to fit the property.

The motion to grant the variance passed by roll call vote 6 to 0.

Yeas: Barry, Blackwell, Ierulli, Jerry D. Jackson, Kouri, Wagner;  
Nays: None.

**CITIZENS' OPPORTUNITY TO ADDRESS THE ZONING BOARD OF APPEALS**

There were no citizens who wished to address the Zoning Board of Appeals.

**ADJOURNMENT**

Commissioner Blackwell moved to adjourn the Zoning Board of Appeals Meeting; seconded by Commissioner Jerry D. Jackson.

The motion was approved unanimously by viva voce vote.

The Zoning Board of Appeals Meeting adjourned at approximately 2:05 p.m.

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Gene Lear, Senior Urban Planner  
Planning and Growth Management Department

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