

MINUTES CITY OF DARIEN
PLANNING & ZONING COMMISSION MEETING

Wednesday, August 7, 2024

PRESENT: Lou Mallers – Chairperson, Shari Gillespie, Hilda Gonzalez, Chris Green, Chris Jackson, Jonathan Johnson

ABSENT: Bryan Gay, Julie Kasprowicz

OTHERS: Ryan Murphy – City Planner, Dan Gombac – Director

Chairperson Lou Mallers called the meeting to order at 7:00 p.m. at the Darien City Hall, Council Chambers, 1702 Plainfield Road, Darien, Illinois. Chairperson Mallers declared a quorum present and swore in the audience members wishing to present public testimony.

Regular Meeting – New Business

- a. **PZC2024-06 2551 75th Street – Dr. Steven Tharp – Involves a petition from Dr. Tharp requesting the following:**
- 1. Zoning Text Amendment to Section 5A-8-2-4 of the Zoning Ordinance listing “dental office or clinic” as a special use within the Neighborhood Convenience Shopping District (B-1); and**
 - 2. Special use approval for a dental office or clinic within the Neighborhood Convenience Shopping District (B-1); and**
 - 3. Repeal a specific condition for the requirement of specified landscaping in lieu of a required fence as per Ordinance 0-07-87.**

Mr. Dan Gombac, Director reported that the Zoning Text Amendment had been previously discussed, but there was still an issue regarding the fence surrounding the property. He reported that Mr. Paul Jopa, 7518 Cambridge Road, had submitted photos of his property, and that Alderman Erick Gustafson submitted a letter voicing his opinion on the matter, materials which Mr. Gombac distributed amongst the Commission.

Mr. Gombac reported that when the fence permit was taken in, it was labeled as “alterations” and there was no indication of it being a fence permit. He reported that the City did approve the permit which allowed the fence to be placed on two lots that were originally not included in the 1987 Ordinance, those lots being Mr. Jopa’s and another resident to the North of him. Mr. Gombac further reported that Dr. Steven Tharp, Petitioner and Mr. Jopa were not able to come to an agreement regarding any alteration to the fence.

Mr. Gombac reported that the Ordinance of 1987 stated that the property behind Mr. Jopa and the property to the North would have no fence, and in lieu of a fence there would be landscaping. He reported that the fence was put up in 2015.

Mr. Gombac questioned if the Commission would be willing to revoke or enforce the condition. He stated that a vote yes would be to revoke the condition.

Chairperson Lou Mallers stated that Alderman Gustafson had requested his letter be read before the Commission. Chairperson Mallers read the letter aloud, which recommended that the City enforce the original 1987 Ordinance.

Mr. Gombac reported that, in regard to the letter from Alderman Gustafson, there were two properties involved and the residents at 7510 had signed a waiver to state they did not want their fence removed. He requested that if the Commission were to adhere to the site plan from 1987, there be an exception for 7510 to keep their portion of the fence in place.

Chairperson Mallers invited members of the audience to come forward for discussion.

Mr. Arthur Donner, 7548 Cambridge Road, stated that the neighbors had no issue with the dental office moving in. He stated that when Mr. Jopa moved in there was a “marriage” with the City when the building became commercial property. He stated that at the time there was open space between Mr. Jopa’s property and the commercial property and all he wants is to reopen that space. Mr. Donner stated that the neighbor who had requested the fence stay in place has a special needs child they are looking to keep protected. He stated that if that space was opened up by about 50 feet everyone would be happy.

Elizabeth Uribe, Attorney representing the current property owners, stated that the fence went up in July of 2014. She stated that the original application for the alterations aforementioned by Mr. Gombac did include a clear drawing and cross section of the fence. She stated that the owners during this time had followed all the procedures required by the City and presented this to the police when a report was made. Ms. Uribe stated that the police report had noted that Mr. Jopa was told to bring any issue to the City directly.

Ms. Uribe stated that the City came in multiple times to inspect the building and ensure it was in compliance with all zoning codes, and that the previous owners were issued a certificate of occupancy multiple times. She stated that the City Code typically requires a six-foot fence between commercial and residential properties.

Ms. Uribe stated that if the 1987 Ordinance were to be fully enforced, the property should still be a photo shop because it was written in as a variation for the landscaping plan and for the use itself. She stated that Darien has grown in wonderful ways and that the 1987 Ordinance is obsolete at this point. Ms. Uribe stated that the best way to move forward would be to keep the fence in place in order to protect her client’s ability to sell their property and Dr. Tharp’s ability to practice his profession without disruption. She requested that the 1987 Ordinance be repealed to allow the fence to remain as is.

Mr. Gombac reported that when the alteration for the property came in it was as a total package. He reported that the assistant had not read it as a fence permit by itself. Mr. Gombac

reported that the fence permit was included in the packet, and that those responsible for reviewing the items did their job, but it was missed upon initial submission.

Ms. Uribe stated that she wanted to make clear no one was “pulling a fast one,” and that everything was put in for consideration by the City. She stated that she is unsure why the City was unaware of the 1987 Ordinance, but it was approved, and this is the way everybody has been operating for the last 10 years with the fence in place. Ms. Uribe stated that the fence is in good condition and is well maintained and will continue to be maintained once Dr. Tharp takes over the building.

Commissioner Chris Jackson questioned if the Commission would be re-reviewing the first two line items of the petition.

Ms. Uribe stated that they were trying to make it easy to show that this would be coming from the same property and transaction. She stated that the current owner had made the request for repeal, but Dr. Tharp would be the one operating his business.

Chairperson Mallers clarified that the Commission would only be reviewing line item three of the petition.

There was some discussion regarding the specific language in the first two items of the petition.

Commissioner Jackson stated that the petition had asked to repeal a specific condition and that the Ordinance permits fencing and landscaping but does not require it. He questioned if, when a variance is granted, it is required.

Ms. Uribe stated that it is required because a variance is supposed to permit something that isn't normally allowed and then it turns it into a requirement.

Commissioner Jonathan Johnson questioned how much disruption there is between the dentist's office and residential property.

Ms. Uribe stated that, as shown in the photos she submitted, the area is used for those who work there to take their breaks, have lunch, etc. She stated that she would think the fence would be preferred so that residents can have their privacy and workers can conduct their business. She stated that there wouldn't be a ton of activity, but from what she understands there would be people coming in and out to conduct deliveries and such.

Chairperson Mallers stated that there is a lot of vegetation on the North side of the property. He questioned if there would be room to plant additional landscaping to make it more visible to the residents to repeal the fence situation.

Mr. Gombac reported that Mr. Jopa and Mr. Donner had discussed the possibility of planting more landscaping but given Mr. Jopa would be allowed to take the fence down and put in additional landscaping as the Ordinance called for, it would be hard for any plantings to thrive. Mr. Gombac questioned if the men could confirm his statement.

Mr. Donner stated that they would waive that requirement and their only request would be to open the space.

Mr. Gombac reported that, based on this request, the condition could be modified in any way based on what the Commission would vote. He stated that if the Commission considered the fence to be removed from Mr. Jopa's property only, then it would be cornered off there. He further stated that the fence would remain on 7510 and no landscaping would be put in.

Ms. Uribe stated that the Ordinance included a landscaping plan including specific placements of plants and she was unsure if they would survive in those locations.

Mr. Gombac reported that that would be waived.

Ms. Uribe stated that tearing down a portion of the fence would not be the most efficient way to resolve the issue and would cost her client and perhaps Dr. Tharp some amount of money to box off the fence that way. She stated that, as demonstrated in the petition, the fence is in good condition and there wouldn't be a reason to take it down. Ms. Uribe requested that the Commission consider the cost associated with the fence that has been in place for 10 years and had not been put in place by her clients. She stated that this would add to the cost of their business and potentially deter Dr. Tharp from purchasing the property.

Commissioner Hilda Gonzalez questioned if there was still a special needs child nearby that would need the fence for protection.

Ms. Uribe stated that her understanding was that was true.

There was some discussion regarding the distinction between the neighboring properties.

There was some further discussion regarding the placement of the landscaping.

Mr. Jopa stated that his understanding was that the short fence around the corners of the building and the building itself would count as the six-foot fence. He stated that he had approached the City regarding the fence when it was first put up and had stated that the City Council had approved the landscaping in lieu of a fence. Mr. Jopa further stated it took him some time to acquire the 1987 City Council minutes with the original agreement.

Commissioner Jackson questioned if Mr. Jopa had a specific objection to the fence.

Mr. Jopa stated that there was previously a set plan to separate his property from the commercial property that did not include the fence that is currently up.

Commissioner Shari Gillespie questioned if Mr. Jopa would be comfortable if the fence were to be taken down and he were in view of workers taking their breaks.

Mr. Jopa stated that he would be comfortable with that.

Commissioner Gonzalez questioned how the neighbor with the child with special needs would feel regarding the fence.

Mr. Jopa stated that it would not affect him.

There was some discussion regarding which sections of the fence that would be removed per Mr. Jopa's request.

Commissioner Gonzalez stated that it is a requirement to have a buffer between commercial and residential and the fence meets that requirement. She stated it would be unnecessary to remove the fence.

There was some discussion regarding the exterior of the commercial building.

Commissioner Jackson questioned if the landscaping facing Mr. Jopa's property had been maintained.

Mr. Jopa stated that the only remaining landscaping is grass and it is being maintained.

There was some discussion regarding how to restructure the fence to meet Mr. Jopa's request.

Commissioner Jackson questioned what was discussed between the petitioner and Mr. Jopa previously.

Mr. Gombac reported that there was a private discussion between Dr. Tharp and Mr. Jopa during the Municipal Services Committee meeting.

Ms. Uribe stated that Mr. Jopa's request would be keeping her clients from full use of their property.

Chairperson Mallers stated that there was previous mention of an illegal structure in reference to the tent behind the building, as shown in the packet.

Mr. Gombac reported that the structure would not be allowed.

Dr. Steven Tharp stated that he would not be able to enjoy the property fully if the fence was taken down and that he felt Mr. Jopa wanted a bigger yard without the taxes.

There was some discussion regarding other buffers between commercial and residential properties in Darien.

Commissioner Chris Green stated that one way to make it work for both parties would be to remove the fence from lot line to lot line.

Dr. Tharp stated that the issue with that would be that Mr. Jopa would then have cause to complain about anything happening on the other side of the fence.

Ms. Uribe stated that this would also open up the commercial property owners to liability from trespassers.

There was some discussion regarding the change in ownership of the building.

Ms. Uribe stated that she had conducted research on the DuPage County Recorder's office and had found the plat of survey for the entire subdivision which did not have the 1987 Ordinance listed. She stated that any encumbrances on the property had not been recorded with the County.

Mr. Donner reiterated that Mr. Jopa is only hoping to open up the space about 50 feet.

There was some discussion amongst the Commission regarding the Ordinance requirement and record.

Commissioner Johnson stated that there are multiple ways to block a business from residential property.

Commissioner Gonzalez made a motion and it was seconded by Commissioner Jackson to approve PZC2024-06 2551 75th Street – Dr. Steven Tharp – Involves a petition from Dr. Tharp requesting the following:

- 1. Zoning Text Amendment to Section 5A-8-2-4 of the Zoning Ordinance listing “dental office or clinic” as a special use within the Neighborhood Convenience Shopping District (B-1); and**
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Upon roll call vote the MOTION TIED 3-3.

AYES: MALLERS, GONZALEZ, JACKSON,

NAY: GILLESPIE, GREEN, JOHNSON

Mr. Gombac reported that the petition would be forwarded to the Municipal Services Committee on August 26, 2024 at 6:00 p.m.

- b. PZC2024-07 8245 Lemont Road, LLC – True North Investments, LLC c/o Carl Manofsky – Involves a petition from True North Investments for an Amendment to the Rockwell Planned Unit Development (PUD) to allow the subdivision of a parcel into two lots and variations for the reduction of yard areas and setbacks. The Property is located within the Office Research and Light Industry District (OR-I).**

Mr. Dan Gombac, Director, reported that the petition would be for final plat of subdivision along with variations. He reported that the property contains offices, research and industrial uses and is bordered by Speedway and some wetlands, with the village of Woodridge to its West. He further reported that the petitioner would present a PowerPoint due to the limited

number of variations. Mr. Gombac reported that the petitioner would be requesting a split of the lots to revitalize the property and bring in new business.

Mr. Lawrence Friedman, Attorney stated that the plan would be to retain title to Lot 1 and sell the title for Lot 2, which requires re-subdividing. He stated that nothing would be physically different, the change would be on paper to clearly define the different ownerships.

Michael, Petitioner representative, presented a PowerPoint outlining the lot reconfiguration. He stated that they would be splitting lot one into two separate lots and relabeling out lot one to lot three. He further stated that they would be requesting four variations. There was further explanation regarding the specific outlining of the lot reconfiguration.

Mr. Friedman stated that revitalizing the property would be tied into a sale which is dependent on re-subdividing the lot.

Mr. Carl Manofsky, CEO of True North Investments, LLC stated that they were currently in contract with a distribution company. He further stated that they have spent a great deal of time and money cleaning out the warehouse and the exterior, and that the new structure would be a welcome addition to Darien.

There was some discussion regarding the separation of the buildings on the property.

Commissioner Jackson questioned if a stormwater easement would be required.

Mr. Gombac reported that an easement was not needed.

Mr. Friedman stated that any easement required by the City had been addressed on the plat.

There was some discussion regarding potential agreements between the proposed properties.

Mr. Gombac questioned if there were any plans to renovate the Lemont Road side with MCT.

Mr. Manofsky stated that the budget allotted for exterior renovation.

There was some discussion regarding the potential future adjustments to the variations.

The resident from 8124 Highland questioned if the proposed lot three would be built upon. He further questioned if the property belonged to DuPage County being that it is a wetland.

Mr. Gombac reported that nothing would be changed with the wetlands. He reported that the wetlands are governed through the City but are overridden by DuPage County.

The resident stated that the wetland does not properly drain overflow.

Mr. Gombac reported that the wetland and water overflow is properly maintained and that if there were further issues he would be able to help the resident contact the County.

Commissioner Jackson made a motion and it was seconded by Commissioner Johnson to approve PZC2024-07 8245 Lemont Road, LLC – True North Investments, LLC c/o Carl Manofsky

– Involves a petition from True North Investments for an Amendment to the Rockwell Planned Unit Development (PUD) to allow the subdivision of a parcel into two lots and variations for the reduction of yard areas and setbacks. The Property is located within the Office Research and Light Industry District (OR-I).

Upon roll call vote, the MOTION CARRIED UNANIMOUSLY 6-0.

Mr. Gombac reported that the petition would be forwarded to the Municipal Services Committee on August 26, 2024 at 6:00 p.m.

Regular Meeting – Old Business

There was no old business to discuss.

Staff Updates & Correspondence

There were no staff updates and correspondence to discuss.

Approval of Minutes

Commissioner Gonzalez made a motion, and it was seconded by Commissioner Gillespie to approve the June 19, 2024 Regular Meeting Minutes.

Upon voice vote, the MOTION CARRIED 6-0.

Next Meeting

Mr. Gombac announced that the next meeting will be held on August 21, 2024, at 7:00 p.m.

Public Comments (On any topic related to Planning and Zoning)

There was no one in the audience wishing to present public comment.

Adjournment

With no further business before the Commission, Commissioner Jackson made a motion, and it was seconded by Commissioner Gillespie. Upon voice vote, the MOTION CARRIED unanimously, and the meeting adjourned at 8:26 p.m.

Respectfully Submitted:

Approved:

X

Jessica Plzak
Secretary

X

Lou Mallers
Chairperson