

MINUTES

ZONING BOARD OF APPEALS

January 27, 2016

COUNCIL CHAMBERS, CITY HALL

CALL TO ORDER:

Chairman Dutcher called the Zoning Board of Appeals to order at 5:00 p.m.

ROLL CALL:

Present: Anderson, Bray, Dutcher, Guest, Lamble, Lewis, Polluch

Absent: None

Chairman Dutcher opened the public hearing and explained the procedures for the hearing.

Public Hearing of Case ZBA16-01

Adam Poll, Planning and Development Director presented the zoning request as follows: McDonald's USA, LLC, 1021 Karl Greimel Drive, Suite 200, is requesting a variance in the B-2 General Business District to allow for the construction of a new building and parking area with 38 parking spaces, seven less than required, a two foot front parking setback, eight feet less than required and a two foot side parking setback, three feet less than required at the location of **1115 W. Chisholm Street**. Article 3.30E2 and 3.30E13f

Property Address: 1115 W. Chisholm Street

Notices were sent to all adjoining property owners within 300 feet of the subject property. Adam said he did not receive any replies about this variance.

To authorize a variance, the board shall find that all of the following conditions are met:

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
2. Strict compliance with the regulations governing area, setbacks, frontage, height bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

3. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners;
4. The need for the requested variance is not the result of action of the property owner or previous property owners. It is not a self-created problem.
5. That the requested variance will not cause an adverse impact on the surrounding property, property values, or the use and enjoyment of the property in the neighborhood or zoning district and will not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Alpena.

CONDITIONS: The Zoning Board of Appeals may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in Section 9.9.

FINDING OF FACT: In granting or denying a variance, the board shall state in a written statement of findings of fact, which you can do verbally, the grounds upon which it justifies the granting of the variance.

Staff evaluation of the five conditions relative to this petition is as follows:

1. The applicant's request would appear to be unique. The existing McDonald's restaurant was legally constructed in 1973. It was designed to maximize the amount of parking spaces for the site. Since its initial construction, there has been a shift in McDonald's customer's patterns where currently about 75 percent of orders are conducted through the drive-thru window. This has created issues with the existing design that sometimes causes the drive-thru line to extend all the way to Chisholm Street, which causes safety issues. The proposed layout of the new restaurant attempts to maximize stacking for drive-thru patrons by re-orienting the building and eliminating some of the existing parking.

The new building would close two of the three entry/exit points off Chisholm Street leaving just a single entry/exit location which will allow for both right and left turns.

Access from the alley via N. Twelfth Avenue would also be retained. Visibility is an ongoing concern when utilizing this exit as it is difficult to determine if another car is coming down the alley due to the concrete wall. A portion of the wall may need to be removed to enhance visibility.

The proposed drive only indicates one lane for exit onto Chisholm, which could potentially cause some backups as a left turn onto Chisholm Street can be difficult at certain times of the day. This issue could be resolved in a number of ways, including widening the exit to have both a left and right exit lanes, by opening up a hole in the rear wall and allowing an exit via the alley or more simply by allowing only right turns out of the drive.

The number of parking spaces would be reduced from 45 spaces that currently exist to 38 parking spaces. The applicant has indicated that 38 spaces would be sufficient due to the shift to drive-thru sales.

In addition, there is an existing link between McDonald's parking area and Little Caesar's rear parking area which is proposed to be removed. This link has been present since 1993. There is no known access easement in place or requirement to keep this link open.

2. The site in question is a wide shallow lot. As the developments along Chisholm Street are older in nature, many of the lots are shallower than what would be typically seen in a more newly developed area. Combined with the fact that this area is built out, and adjacent properties cannot be easily acquired. McDonald's could potentially meet the parking stall requirements by significantly shrinking their dining area and adjusting the parking setbacks, but that would not appear to be practical in this instance. They currently have a zero foot side yard parking setback and allowing a two foot parking setback along the Twelfth Avenue property line would not appear to be an issue.

The current site plan shows a two foot front parking setback, eight feet less than required. Although the required ten foot front yard setback may not be practical, there would appear to be room to move the building back on the site an additional three feet, which would allow for a front parking setback of five feet. It would narrow the vehicular movement lane in the rear from 17' to 14' but it would appear to be wide enough for traffic.

3. The proposed design would appear to have a positive effect on the area. It would greatly reduce the existing stacking issues that causes vehicles to back up onto Chisholm Street. The overall use is not changing and will still be utilized as a McDonald's restaurant.

The only potential negative impact would be that customers utilizing the area parking lot in Little Caesar's would lose a potential exit, and it would become difficult at times to exit this parking lot if the Little Caesar's drive-thru is backed up. Customers in this situation can currently utilize the McDonald's parking lot for exit if the access off Thirteenth Avenue is blocked by the Little Caesar's drive-thru line, but in order to maximize parking, this would have to be closed off. As Little Caesar's has no dine-in option a majority of their client's park in the front of the store, or go through the drive-thru, and the rear parking lot is typically utilized by their staff. This would appear to minimize the impact on Little Caesar's. In addition, there would not appear to be any recorded easement for the link between the parking lots and the link appears to have been created when Chisholm was

being resurfaced so customers could access Little Caesar's and McDonald's without traveling on Chisholm Street.

4. The variances would not appear to be self-created. The need for the variances comes from a shift in preferences for McDonald's customer base to utilizing the drive-thru about 75 percent of the time, a much greater rate than was the case when the use was constructed. All the variances needed will maximize drive-thru stacking, while creating as much parking as possible.
5. Granting the variance would appear to have a positive impact on the area. Allowing the new design would appear to reduce the instances when the drive-thru is backed up onto Chisholm Street creating a traffic hazard. In addition, McDonald's needs a new facility at the site, and allowing the new design will help them better meet their customer's desires for drive-thru service.

In granting a variance, the board may attach conditions regarding the location, character and other features of the proposed structure as it may deem reasonable in furtherance of the purpose of this ordinance. In granting a variance, the board shall state the grounds upon which it justifies the granting of said variance.

Staff recommendations:

The request would appear to be unique due to the shape of the lot and the need to maximize drive-thru stacking space. The requested parking variance and some of the parking setbacks are needed in order to accomplish this task.

Staff did make some suggestions to the applicant that could lessen the needed variances that were not incorporated into the submitted plans.

The front parking setback could be increased to five feet by moving the building back further on the lot an additional three feet. This would appear to create additional greenspace in the front and reduce the vehicular lane in the rear from 17' to 14'.

Staff also has concerns with the presence of one exit lane onto Chisholm Street. At times, traffic can be heavy on Chisholm Street, and it can be difficult to make a left turn. Staff suggests opening up a hole in the rear wall to allow an exit via the rear alley in addition to the existing access along the alley. Another option would be slightly widening the access on Chisholm Street to create multiple exit lanes which would allow for both left and right turn lanes while exiting.

Staff also has visibility concerns for the existing alley access. Currently it is difficult to see any vehicles coming down the alley due to the height of the existing wall. The wall could be lowered in the section near the proposed exit to allow for better visibility.

Overall, the proposed design appears to solve the stacking issue while allowing for McDonald's to update and modernize their facility. Staff would recommend approval of the request as it does appear to meet the variance criteria but would ask that potential suggested changes are explored.

PUBLIC COMMENT:

Chairman Dutcher asked if there was anyone who desired to speak either for or against this variance.

Member Guest had a question of Adam in regards to suggesting only right hand turns out of the parking lot. He asked who makes that determination. Adam said it could be a condition made by the board. Adam said at one point the drive-thru was at least labeled, he believes, as a right hand turn only.

Jeff Brinks of Williams and Works out of Grand Rapids addressed the board. He said he is working with McDonald's on this project. He believes this is a worthy request from McDonald's. He said McDonald's has existed at this location since 1973. Mr. Brinks said McDonald's will go through a time where they will look at remodeling and they will look at refreshing and do exterior changes to bring it up to more modern appearance. When a restaurant gets to be 43 years old, there is just not much more they can do anymore in the way they serve the customers and the way the customers interact with the restaurant. When the drive-thru was originally put in, it was probably mostly sit down and now it is about 70 percent drive-thru. Now the whole dynamic has changed. When they get to a point they can take advantage of doing a rebuild, part of the objective is to make some improvements where they can and not just for them but recognizing there are issues of business like McDonald's presents to the motoring public and with the number of people trying to get in and out of the drive-thru. He says a lot of things have changed over the years and certainly McDonald's wants to stay here, continue to be successful, and obviously are limited with the property they are on.

With regards to the recommendations, with the driveway he thinks the preference would probably be to consider opening the wall in the other location as Adam indicated. The only opportunity if the driveway in its current location were being proposed, were to be widened, the only way they could widen it would be toward the right facing the building. That is going to do a couple of things. One, it is going to impact parking spaces and secondly, we are trying to keep the entrance point as far away from the drive-thru lane as possible. We would end up pulling that closer and then increasing the risk of people coming back that way. That is one reason we would prefer to keep that the way it is. As far as access onto the main street, really the problem now becomes internal. It becomes difficult for people to get out, they would have to wait to turn left. That is going to occur within site, not necessarily in any place that is going to cause problems for the traveling public.

Secondly, the wall height on the existing location there certainly is not an issue if that is a concern now, then it makes good sense to provide some better visibility there for people coming down that alley. Certainly do not have any objection to that at all.

Finally, the aisle width. The reason why it is proposed the way it is, is partially due to McDonald's internal requirements as far as traffic maneuvering within the site. Aisle widths and the interaction with the drive-thru lane, McDonald's does an enormous amount of research on the drive-thru. Aisle widths they set are such that a delivery vehicle can get in and get around and also so that there is no interaction with people that are operating the drive-thru. If you start making those aisle widths too narrow, then you get a lot of internal conflict.

With that being said, instead of taking all three feet out of the one side for the front parking setback, maybe we can take a foot or so out of the north and a foot out of the other side just to get that distance a little bit greater.

Member Bray asked Mr. Brinks about the opening of the entrance. He said right now they have a 33 foot clear throat on the curb cut in the front, is there any chance if you go south to the right, without affecting any of that parking, but just move that radius curb over, leave the sidewalk alone, the sign might be in a tighter spot, just by bringing that over say probably five feet, if that were possible, would that be enough as far as you are concerned Adam. You would go from 33 to 38.

Adam said it probably would be enough to get the extra exit lane, the main thing is I don't want to lose parking.

Member Bray said it would not affect any of those diagonal parking spaces, they would stay the same. It would just widen it and slide it over a few feet. It looks like the two curbs on the inside, the radius on one is seven or eight feet the other one looks like five. The straight section would just get shorter.

Mr. Brinks said that is a potential. If you look at it purely of a lane width measurement, typically a road lane is 12 foot wide, so if 36 we would have three lanes. So you could potentially stripe it for a left turn out. Sometimes you can even get away with an eleven foot lane. We can certainly do that, if the board feels like that's something that is extremely important, as locals you are more in tune with the traffic scenario there than I might be.

Member Bray had another question and asked if there is any possibility, he is looking at the drive-thru as they pull in, you have two handicap spots, three regular spots, and what looks like to be a blend merge line, if they get stacked up inside with theirs, is there any possibility we are going to get stacking that is going to block the handicap spots, or those other spots in front of the building, where the people that are there will not be able to back out and leave. The same would hold true for the ones right off the street that are the first few.

Mr. Brinks said the drive-thru itself, the way the drive-thru operates now is significantly different than the new drive-thru. The order points where the people place their order is actually pulled farther back around the building. The biggest slowdown in drive-thru, the drive-thru operation, is food preparation. If it's too close up, the biggest barrier to get people to move through is the time that it takes for them for their order to be prepared. Now McDonald's has a significantly wider menu than what they did a bunch of years ago. Order complexity is a bit higher. By bringing it around, it facilitates them having much more time to prepare the food internally, and they are able to just hand it out the window, because they have more time to do it. The stacking behind the drive-thru order points will go down significantly, especially with the two lanes. They don't operate in tandem. They operate completely independent of one another. When this is functionally properly, they can do 40-50 more cars during their peak hour than what they can do with a single lane of traffic.

Member Polluch asked Mr. Brinks if there is going to be a wall along Chisholm Street for the cars. Mr. Brinks said no, not currently. There will be landscaping there along that frontage.

Member Polluch said when you park cars along there without a wall and the snowplows go by at about 30 miles an hour those cars are going to get hit with snow.

Member Polluch asked Mr. Brinks, where are you going to push your snow. Mr. Brinks said they are going to have to find a spot on one of the sides to put it. It will likely end up along the back edge where the parallel spaces are.

Member Lamble asked, what about someone who is pulling a trailer, either a boat, snowmobile or something of that nature, where would they possibly park in there. Mr. Brinks said, likely they will be parking along the back where the parallel spaces are. That is one of the reasons the aisle widths are the way they are so if you get someone that parks along the edge somebody can still get by them.

Member Polluch asked Mr. Brinks, where do their freight trucks park. He said, when the deliveries come, what happens is, they will pull in and they will block the inside drive-thru lane for the duration that they are there, and the other drive-thru lane will continue to operate.

Donald Gilmet, Building Official told the board that McDonald's Corporation does not need anybody's permission to install a right-turn only sign. You don't have to get MDOT's permission to put up a sign. When you are making a new entranceway onto a state trunk line, they have all kinds of say about width and radiuses and they are interested in where the traffic goes.

Member Bray asked about the alley. Adam Poll said the alley is not completely paved right now. Adam said if they do require knocking a hole in the wall to the alley, one of the things we discussed via staff is require them to pave the entire alley.

Christopher Walls of 4485 El Cajon Beach Road addressed the board. He was wondering if McDonald's will continue operation during construction. Mr. Brinks said no. They will close the

restaurant while it is being built. Mr. Walls owns the property next to McDonald's. He wants to make sure that none of the construction vehicles are going to be on any of the neighbor's lots. Mr. Brinks said no.

Luciana King of 1370 Jesse Road, Alpena addressed the board. She is Len Zolnierek's daughter. They owned the Zolnierek Insurance building next to McDonald's, which Dr. Walls now owns. They were neighbors of McDonald's for over 15 years. Parking for the trailers, the snowmobile trailers, etc. that come into town, they used our parking lot. They did not use McDonald's. She said they took up all their parking spots. She said the alley is not paved. She had to bring buckets of sand and gravel from home on a couple of occasions to fill that alley. That alley took a beating, there are some big holes in the alley. The exit to the alley you cannot see past that wall. The bigger trucks that come in, they park in the alley and block the alley and that entrance. McDonald's has always been a good neighbor. After we got through the snowplow issue, they were plowing their snow onto our property at the time, we worked something out. It was an issue, because they have no place to plow their snow, so it went onto our back area where we had grass. That area is what McDonald's used to put their snow.

Wayne Kowalski of 103 Barrington Circle addressed the board. Mr. Kowalski said when a building was built right next to his business by Wright and Filippis, he was shocked they could build right to the road. He said he looks at this plan for McDonald's, and he sees no loading zone and no snow zone. He feels they should just get rid of that wall along the alley and have McDonald's put the wall on the other side and pave the entire alley.

Member Lamble asked Adam Poll if any of the residents along the alley utilize the alley. Adam says as long as he knows he doesn't think that any of them get their main access off of that alley. He believes they get access off the street. If they were to do some kind of condemnation of that alleyway, would that not solve a lot of the concerns that we are looking at. Adam says if they were going to vacate the alley, they would vacate the entire thing. If we do that, the residences would have an option to keep half of the alley, which would essentially incorporate into their yard.

Wayne Kowalski addressed the board again about the alley. He said do what he did and have the business owner pave the alley. Mr. Kowalski said he put the wall along the back of his business on the other side, so at least you could use that access. Let the business owner take care of and maintain that alley. Mr. Kowalski said he gave every residence access, because they need to get into the back of their building too. There is a gate to give the residences access to their backyards.

Luciana King addressed the board again about the snowplows. She said she has been out there when the snowplows go by. She got sprayed and it hits the front of the insurance building. Every time the plow goes by, that building gets sprayed with snow. It does not matter how slow the plow is going, the building gets hit. If you have cars, depending how close they are to Chisholm, they are going to get hit.

Member Lamble said if they were to require on-site storage of the snow and if that is not feasible, how would they require that it be removed from the site. Because he says this is going to impact the designated parking areas.

Donald Gilmet, Building Official said a lot of businesses move the snow as they need to. He said there should be 10 percent snow storage of the paved lot.

Since no one else wished to speak on this case, either for or against, Chairman Dutcher closed the public comment portion of the meeting at 6:00 p.m. to deliberate for case ZBA16-01.

DISCUSSION BY BOARD MEMBERS:

Member Guest said a suggestion to have a wall to prevent snow from hitting the cars, he personally thinks that is outside the scope of what they are dealing with. He would not like the motion to include anything that would have to do with the snow wall. Also, with people parking off-site of McDonald's is not something they could prevent, so unfortunately there is nothing they should do with their motion to try and prevent that. It will have to be up to the adjacent property owners to enforce the existing parking regulations.

Member Lewis said they are asking for a lot of variances, and he would be more in favor of moving the whole building back three feet, or at least a little bit more of a setback on the front. They are also quite a bit short on the parking, which is a concern for him.

Member Guest said he also shares Member Lewis' concern with the city wanting to set this back. Mr. Brinks indicated if they were to set the building back, they would prefer it only to be a one foot set-back rather than the three foot requested by the city. Adam said they think they could do one foot off the rear and one foot off the front driveway. So essentially they would make it two more feet.

Member Lamble said he is not comfortable with moving it back. He thinks the problem that you are going to run into is you are shortening up those lanes that are coming around that building. If you leave it where it is currently, I would support that. But if we start shifting this building back, you are going to start eating up what's really limited space there now, and it's going to really make it more difficult.

Member Bray said he sees they have a driving lane in the back that is 18 feet wide and its one-way traffic. Is there any way we could possibly fit some parallel parking spaces along the back curb, and still you might have a ten foot or eleven foot lane going out. You still have two lanes of traffic. One for the drive-thru and one for the people that are just driving around. That is 18 feet right now and it's one-way.

Donald Gilmet said when the trucks come and unload, you have your eight foot wide semi, then you have the platform that sticks out another four or five feet, now you have just lost eleven feet of being able to drive through. That is why McDonald's has that wider back there. If there is a

truck sitting there, even though the employees block off one of those drive-thru lanes, what happens when those cars start stacking up, that driver is not going to move that truck. That is one of the reasons why they do that so you can still get around reasonably.

More discussion ensued about parallel parking spaces along the back area.

Member Lamble made a motion that they approve this site plan as presented, to retain the position of the building at this point, as a condition to granting the parking variances. Also to the extent that they are able to widen the ingress and egress approach on Chisholm Street to an additional three feet, to open up a second hole in the back wall to the alley, cut the back wall down for better visibility, pave the entire alley, and that it satisfies the conditions.

Member Polluch seconded the motion.

ROLL:

Ayes: Anderson, Bray, Dutcher, Guest, Lamble, Lewis, Polluch

Nays: None

The variance has been granted based on the board's motion to retain the position of the building as submitted, as a condition to granting the parking variances. Also to the extent that they are able to widen the ingress and egress approach on Chisholm Street to an additional three feet, to open up a second hole in the back wall to the alley, cut the back wall down for better visibility, and pave the entire alley.

Let the record show to authorize a variance, the board shall find that all of the following criteria has been met for Case ZBA16-01.

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
2. Strict compliance with the regulations governing area, setbacks, frontage, height bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
3. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners;

4. The need for the requested variance is not the result of action of the property owner or previous property owners. It is not a self-created problem.
5. That the requested variance will not cause an adverse impact on the surrounding property, property values, or the use and enjoyment of the property in the neighborhood or zoning district and will not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Alpena.

OLB BUSINESS:

There was not any old business.

NEW BUSINESS:

Chairman Dutcher entertained a motion to approve the minutes of the October 28, 2015 meeting.

Ayes: All

The minutes of the October 28, 2015 meeting were approved.

Adam did receive a letter from Mr. Gerald Arbuckle. Mr. Arbuckle came to the Zoning Board of Appeals last year. He had a variance to come before the board for 223 Sable Street. He had a duplex that was converted to a single family residence for marketing purposes, and he quickly learned that he was not selling it as a single family home, so he asked if he could convert it back to a duplex. Basically, he has not started that project yet. Mr. Arbuckle wanted to ask for an extension. After 12 months of inactivity, technically the variance expired. He asked if that decision could be extended to 12 months. However the board feels, you can talk about this and essentially approve it today; or if you want to go more in-depth, we can certainly look at this closer at the next meeting. More importantly the request was made, so Adam said he is not going to consider this expired until you make a decision.

Member Lamble made a motion to grant the extension until January, 2017 for Mr. Arbuckle to convert the house at 223 Sable Street back into a duplex.

Member Polluch seconded the motion.

Ayes: All

The extension has been granted until January, 2017.

ADJOURNMENT:

With no other business to discuss, Chairman Dutcher adjourned the meeting at 6:30 p.m.

Alan Guest, Secretary

Norman Dutcher, Chairman