

**DAVISON TOWNSHIP
ZONING BOARD OF APPEALS
August 13th, 2024**

MEMBERS PRESENT: Richard Hill, Carol Hagler, Eric Hernandez, Joy Smith, Nancy Davis, Travis Howell, Tim Green
Building Official Planning/Zoning Admin./ Matt Place
David Lattie (Via Phone Call)
Recording Secretary Jessica Harmon

MEMBERS ABSENT: None

OTHERS PRESENT: Richard Rassel (Legal Council for the Jonna's), Haley Jonna, Laith Jonna, Remy Jonna, Eric Williams

CALL TO ORDER

The regular meeting of the Davison Township Zoning Board of Appeals was called to order at 7:00 P.M. at the Davison Township Municipal Center, 1280 N. Irish Road, Davison, MI 48423.

ADOPT THE AGENDA

MOTION BY DAVIS, SECOND BY SMITH to approve the agenda. Motion carried unanimously.

APPROVE PREVIOUS MINUTES FROM MAY 14TH, 2024

MOTION BY HAGLER, SECOND BY HERNANDEZ to approve the May 14th, 2024 regular board meeting minutes as presented. Motion carried unanimously.

UNFINISHED BUSINESS

None

NEW BUSINESS

CASE 16-V-2024-2 LAITH JONNA

Richard Rassel: The letter sent to the township on August 9th, was the earliest date that we could get that to you because we were waiting to try and complete the parking study. This is a 125,000 sq ft facility with a requirement of 4 parking spots for every 1,000 sq ft instead of the 5 spots for every 1,000 sq ft that is required by the ordinance. Retailing has changed over the years because of the online delivery phenomena that has taken over the past couple of years. We looked at other two major chains in Davison; Menards and Meijers, those stores currently operated at 50% of the parking that has been required at peak hours. We have an ordinance that has not been updated relative to the variance for a number of years and it ends up resulting in a waste of land. Your ordinance contemplates this situation in two particular places; in section 1706, in the Zoning Ordinance that's section 16 and section 2206. Take into account that we have an over parked ordinance and take into account that we have the data to support that we need less parking.

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The parking study based on the entirety of this site at peak hours calls for 497, we are proposing 695 spots. This is almost 200 more than what the parking study calls for. The Township ordinance calls for 914. This would be a total variance for 219 spaces.

Hernandez: You split the land to make the current businesses happen, is that before you had the thought of the big box store going in?

Haley Jonna: We condominiumized the land, this is a future development area. There are 4 units in the condominium, there is Dairy Queen which is unit 3, Taco Bell is Unit 1, Unit 2 is the existing strip center, Units 4 & 5 which are to be combined is Hamlin Pub with the contemplated proposed retail. The area behind it is future development area. We have explored multiple development opportunities for that area like apartments, hotels and storage but nothing came to fruition because they weren't economically feasible for the development of the lot. We had no idea that this national retailer was going to come to the table when we built this.

Hernandez: You built it up and you say it's the right building and the right fit but it's not per our ordinance. It's a pretty big variance.

Rassal: The ordinance has a strict formula but it contemplates at part of it's own policy that it may be varied upon sufficient evidence.

Smith: The parking study is from Friday March 17th, 2023, it's a year old; is that correct?

Rassal: The national discount retailer component was prepared last week and signed on 8/6/24. Some of the study on the existing site was done some time ago. The study of Meijer and Menards was finished August 6th.

Smith: When actually did they go? Noon on a Tuesday? Saturday? What day.

Rassal: Saturday July 20th between 11am – 2pm for Meijer.

Smith: What about the traffic on the road? It's a two-lane road.

Place: That would be a part of the Planning Commission. They would have to provide the planning commission with the traffic study.

Laith Jonna: We would meet with the county road commission to see what traffic study that they need and submit everything. They could predict if anything needs to be done to the road at that point in time.

Place: Administrative Review:

Variance request:

Laith Jonna owner of parcel 05-18-200-021 located in the vicinity of Lapper and Irish Road is requesting a variance of section 1706.12.E for 174 parking spaces for development of a big box store.

Facts:

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Mr. Jonna is looking to construct a big box store at this location which is part of the overall development of Irish and Lapeer Roads. Mr. Jonna purchased this property (20.6 acres) in 2016 and split it into 6 parcels, two of which were sold to Taco Bell and Dairy Queen for their stand-alone businesses.

The remaining parcels Mr. Jonna developed himself for a 5-unit retail plaza and a restaurant (Hamlin Pub) with a 6-unit retail space attached which has been approved by the Planning Commission. These businesses share parking for the development which have been approved.

Dimensional Variance Standards:

Section 2207(3)(a) requires that the ZBA find that the applicant has shown that a practical difficulty exists on the subject property that was not created by the applicant. That the granting of a variance would deprive the applicants of rights enjoyed by other owners in the same zoning district and would not confer special privileges to the applicant. Finally, the variance must be the minimum to make possible a reasonable use of the land and be harmonious with the intent of the ordinance.

In this case the township zoning ordinance requires that 866 parking spaces be provided for all of the uses in the development. Mr. Jonna states his difficulty as a deep and narrow parcel and the literal interpretation of the ordinance deprives the property owner of rights commonly enjoyed by others in the district.

Recommendation:

The planning/building department recommendations denial based on the following reasons:

1. Due to splitting the parcel and selling off pieces and the existing development by Mr. Jonna, he has caused a self-imposed difficulty.
2. Allowing a parcel owner to subdivide a parcel, then ask for relief for a dimensional limitation would confer special privileges to the applicant.
3. Notwithstanding the self-imposed practical difficulty, the requested relief of 866 parking spaces is the minimum requirement to allow a reasonable use of the land.
4. Granting of this variance would go against the spirit and intent of the zoning ordinance.

Green: How many spots does Meijer have?

Place: I don't have that information on me.

Green: Will this retailer sell groceries?

Rassal: Based on my knowledge of the retailer, yes. Referring back to Meijer, it has 730 total spaces and Menards has 436 total spaces. The parking study determined at peak hours that the Meijer was 44% occupied and Menards was 47% occupied.

Green: How many square feet is Meijer?

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Rassal: I don't have that information.

Howell: Has the township done a variance like this for other businesses?

Place: It is hit and miss every year between who is asking for more and who is asking for less.

Green: What size building would they need to meet this requirement?

Place: This is the minimum size that the retailer will go.

Hill: I sit here and think about the men and women who created this ordinance, do we want to grant a waiver for 219 parking spots? That's a big variance for me.

Place: The proposed retail on the north side of Hamlin Pub, you have 1 for every 150 sq ft for that store. If you put a restaurant, it is going to require more parking than what would be provided for a retail space. Is there going to be a restaurant that's going to go into the next phase of the retail plaza?

Laith Jonna: It would be a copy of what we have now. We were 12 parks under parked during phase 1. We had so much land in the back, what we did is we decided to land bank it. It's been 3-4 years that we have been on site and we haven't had any issues with parking. For phase 3 which would be the strip mall, we have 40 parks set aside for that. We would probably put a fast casual restaurant which would require less parking. Now they have Doordash and things of that nature so restaurant culture is changing and evolving.

Davis: Is there physically enough space to put in 914 parking spaces?

Laith Jonna: No.

Davis: What is the max parking that you can fit? Is it the 695?

Laith Jonna: Yes.

Howell: Any correspondence from surrounding business?

Place: No. I did have to send notices out within 300 ft.

Hernandez: I don't agree with the parking statistics. The number of spaces is a big gamble for the variance. Why did you sell the land to a vendor that doesn't fit there?

Rassal: This retailer wouldn't be here if they thought they weren't parking the site adequately. They are convinced that this site will have extra parking as are we.

Lattie: Traffic study is interesting. There's always room for consideration especially of new trends. Traffic/shopping/dining patterns have changed over the last few years so we do need to consider. You are required to find that practical difficulty exists and for dimensional variance, it should not be granted unless all of the standards are met that are contained in 2207(3)(a)(1). That includes that it not be based on the absence of the applicants. Mr. Place makes reference that the piece started out at 20 acres, the applicant said as a matter of practical difficulty that the site is uniquely narrow and deep compared to adjacent parcels. The dimensions of the remainder piece are a direct result of the applicants' decisions. It's interesting to me that the parking study includes two other users in the same district that have complied to your ordinance. You have to decide to grant these applicants special rights as compared to the property owners that have complied.

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While you do have the authority, the Planning Commission has the authority to grant this relief as well.

Smith: If we didn't deny this, could they go to the Planning Commission and they could overrule it?

Place: There's two forms of the appeal process, they could ask the Planning Commission to accept their study or if it's turned down, they can appeal it to circuit court.

Davis: I would like the Fire Chief to look at this because I don't think you could get a firetruck through here.

Place: We have already looked into this and we have the minimum requirement to get a firetruck through.

Hagler: If we deny this this, Planning Commission can review and move forward with it so we don't get circuit court involved.

Green: I live near Meijer and Menards; it is never full. I do think we need to ask ourselves is this realistic? A lot of people shop online now, it's changing. There's not as many people that are staying for a long time in these stores.

Davis: There are other smaller vendors that have the minimum requirements and it's a nightmare because there's not enough parking.

Lattie: Tabling this decision seems like a reasonable process. You can proceed however you want, that's your option.

Hill: I encourage this to be passed on to the Planning Commission.

Lattie: Hypothetically, if you denied it tonight, the minutes would be certified or adopted at the next meeting. The applicants would have a short time frame to appeal to circuit court, I think it's 30-45 days. If you wanted to allow more time to the applicants, tabling would give them that option.

MOTION BY HAGLER, SECOND BY DAVIS to table this and passing it on to the Planning Commission for consideration. Motion carried unanimously.

PUBLIC COMMENT PERIOD

None.

INFORMATIONAL ITEMS

None.

ADJOURNMENT

MOTION BY HAGLER, SECOND BY HERNANDEZ to adjourn at 8:04 p.m. Motion carried unanimously.

Eric Hernandez, Secretary