



MINUTES
PUBLISHED BY THE AUTHORITY OF THE ZONING BOARD OF APPEALS
REGULAR MEETING
GOVERNMENT CENTER CHAMBERS, 4TH FLOOR, ROOM #400
115 E. WASHINGTON STREET, BLOOMINGTON, IL 61701
WEDNESDAY, AUGUST 17, 2022 4:00 P.M.

The Zoning Board of Appeals convened in Regular Session in-person in the Government Center Chambers on the 4th floor, Room #400, Wednesday, August 17, 2022, with the following physically present staff members: Mr. Jon Branham, City Planner; Ms. Alissa Pemberton, Assistant City Planner; Ms. Kimberly Smith, Assistant Economic & Community Development Director; Mr. George Boyle, Assistant City Attorney.

The meeting was called to order by Staff Liaison, Ms. Pemberton, at 4:25 pm.

ROLL CALL

Attendee Name	Title	Status
Mr. Terry Ballantini	Commissioner	Present (Virtual)
Ms. Victoria Harris	Commissioner	Present
Mr. Michael Straza	Commissioner	Present
Mr. Tyler Noonan	Commissioner	Absent
Ms. Nikki Williams	Commissioner	Present
Mr. Zach Zwaga	Commissioner	Present
Ms. Alissa Pemberton	Assistant City Planner	Present
Ms. Kimberly Smith	Assistant Economic & Community Development Director	Present
Mr. Jon Branham	City Planner	Present
Mr. George Boyle	Assistant City Attorney	Present

Ms. Pemberton called the roll. Ms. Harris - Present, Mr. Straza - Present, Ms. Williams - Present, Mr. Zwaga - Present. (4-0). A quorum was present.

Ms. Pemberton noted that Commissioner Ballantini was excused from attending in person and was present virtually, per City Code § 2-402B(2)(a) that permits virtual attendance for personal illness or disability.

Commissioner Harris made a motion to allow Commissioner Ballantini to attend and participate remotely. Seconded by Commissioner Straza. Roll call vote was taken, Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes. (4-0). Motion was approved.

Ms. Pemberton noted that it is preferable to have the meeting run by a Commissioner who is attending in person and that Commissioner Straza has volunteered to serve as Temporary Chair for this meeting.

Commissioner Harris made a motion to allow Commissioner Straza to serve as Chair for the duration of this meeting. Seconded by Commissioner Ballantini. Roll call vote was taken, Ms. Harris - Yes, Mr. Straza - Present, Ms. Williams - Yes, Mr. Zwaga - Yes, Mr. Ballantini - Yes. (4-0). Motion was approved.

PUBLIC COMMENT

Chair Straza opened the floor for public comment, reminding attendees that public comment is typically reserved for items not on the agenda.

There was no public comment.

MINUTES

Commissioner Zwaga motioned to approve the minutes from July 20, 2022, regular Zoning Board of Appeals meeting, as amended for spelling correction on page four. Commissioner Harris seconded.

Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, and Mr. Ballantini - Yes. (5-0). Motion was approved.

REGULAR AGENDA

SP-08-22 Public hearing, review, and action on a petition submitted by Nexus Church for a Special Use Permit for a Place of Worship in the B-1 (General Commercial) District for the property located at 802 S. Eldorado Road. PIN: 21-11-251-020. (Ward 8). *Tabled from the July 20, 2022, Regular Meeting, for further information and consideration.*

City Attorney Boyle provided an update on item as related to liquor licensing within 100 feet of a church. State law does allow for a local liquor control commissioner (the Mayor) to grant exemptions to the state law's prohibition in 235 ILCS 5/6-11, the Board could consider a motion for approval upon contingency of that exemption.

Commissioner Harris inquired on options for the Board to act upon the proposal. Ms. Pemberton explained that the Board has a number of options for how to proceed in this case:

- 1) The Board may decide that the issue of whether the location of Nexus Church causes a prohibition of new liquor licenses for the surrounding properties (within 100 feet) is not related to any of the factors that must be true in order to recommend approval of a Special Use Permit, and may make a recommendation on the merits of the case, as-is;

- 2) The Board may decide that the issue of whether the location of Nexus Church a prohibition of new liquor licenses for the surrounding properties (within 100 feet) is related to one or more of the factors that must be true in order to recommend approval of a Special Use Permit, and may make a recommendation on the merits of the case and the consideration of that issue, by doing one of the following:
 - a. Recommend denial of the Special Use; or
 - b. Recommend approval of the Special Use, without conditions related to the issue of liquor licensing, and permit City Council to further vet the issue through public opinion; or
 - c. Recommend approval of the Special Use, contingent upon an exemption to the prohibition in 235 ILCS 5/6-11.

Commissioner Ballantini inquired whether tabling the case again was an option. Ms. Pemberton explained that further postponing the case is not recommended. Mr. Boyle noted that the process for adopting the Ordinance required to allow the subject exemptions will be brought to Council by the Legal Staff.

Temporary Chair Straza opened the public hearing. Mr. Boyle asked that the public limit their comments to new information only.

Karl Bauchmoyer, Attorney for Nexus Church (14 Lavender Lane) stated there is no animosity toward the neighboring property; the church is simply seeking to occupy the subject space. Timeline is a concern for the Petitioner due to leasing and finance issues. He discussed the State statute language and noted that it includes the exemption language, but also includes language that prohibits preventing the church from locating as such. He stated that the argument at issue for Buddy's Liquors should not impact the subject Special Use since all of the standards have been met.

Commissioner Straza asked for further clarification from Staff on whether the standards have been met and how those interact with the concerns at issue. Ms. Pemberton reviewed Standard 2 for Special Uses as it relates to the case and clarified that Staff recommends approval of the Special Use Permit.

Mr. Bauchmoyer clarified that granting the Special Use does not impact Buddy's Liquors in any way, currently; the concerns expressed are regarding a future, hypothetical situation and are overly burdensome for consideration during current review.

Mr. Boyle confirmed that Staff intends to pursue passing the exemption Ordinance, regardless of whether it is part of a contingent motion.

Dilip Patel (806 S. Eldorado Road) stated he had obtained signatures of people against the request for the Special Use Permit.

Ms. Pemberton stated that testimony at Administrative Hearings must be provided in person or by duly authorized agent or attorney, so petition signatures are not typically admissible. Mr.

Boyle noted that weight would also need to be given to the fact that the people are not present and unable to be cross examined and asked whether the Applicants object to submission of the signed petition. Mr. Bauchmoyer objected to the submission of the petition. Commission Straza clarified that the petition is not admissible evidence, for all of the reasons previously stated.

Mr. Patel stated his further objections to the proposal, including concerns over sufficient parking and the traffic at Oakland and Eldorado.

Nita Patel (806 S. Eldorado Road) stated her concerns with the proposal and that she needs proof that the City and State will renew their liquor license. Mr. Boyle stated the Ordinance that should result from the process Staff will be bringing to Council will provide proof.

Mr. Straza closed the public hearing.

Commissioner Harris made a motion to establish findings of fact that all standards of approval for a Special Use Permit are met. Commissioner Zwaga seconded.

Ms. Harris inquired about the protocol for adding contingency. Staff explained that would be related to the second motion for approval of the Special Use; this motion is related to whether the necessary standards for approval have been met. No further Board discussion.

Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, and Chair Ballantini - Recused. (4-0-1). Motion was approved.

Commissioner Harris made a motion to recommend approval of the petition submitted by Nexus Church for a Special Use Permit for a Place of Worship in the B-1 (General Commercial) District for the property located at 802 S. Eldorado Road, contingent upon the adoption of an Ordinance authorizing the local liquor commissioner to grant exemptions to the prohibition in 235 ILCS 5/6-11 subsection (a) as related to the location of liquor licenses within 100 feet of any church, and with the condition that screening is added for the shared refuse collection area, per § 44-1308A. Commissioner Zwaga seconded.

Roll call vote: Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, and Chair Ballantini - Recused. (4-0-1). Motion was approved.

Staff noted this will go to City Council on September 12, 2022.

V-06-22 Public hearing, review, and action on a petition submitted by Chris Tamm for a Variance from § 44-908D of the Zoning Code to allow reduced distance between a principal and accessory structure, in the R-1B (Single-Family Residence) District for the property located at 3614 Baldocchi Drive. PIN: 15-30-252-007. (Ward 9).

Ms. Pemberton presented the staff report with a recommendation to approve the Variance. She noted that many of the other homes in the area share similar construction, even without the unique site conditions of the Petitioner's property.

The Board did not have any questions for staff.

Chair Straza opened the public hearing.

Petitioner, Chris Tamm (3614 Baldocchi Drive) stated he as spoke with neighbors and they have all been in favor. Five neighbors provided him letters stating that he may speak as their duly authorized agent.

No additional testimony was provided.

Mr. Straza closed the public hearing.

No Board discussion was held.

Commissioner Harris made a motion to establish findings of fact that carrying out the strict letter of the Code does create a practical difficulty or particular hardship for the petitioner. Commissioner Zwaga seconded.

Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, and Mr. Ballantini - Yes. (5-0). Motion was approved.

Commissioner Harris made a motion to recommend approval of the petition submitted by Chris Tamm for a Variance from § 44-908D of the Zoning Code to allow a 4-foot reduction in distance between a principal and accessory structure, in the R-1B (Single-Family Residence) District for the property located at 3614 Baldocchi Drive. Commissioner Ballantini seconded.

Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, and Mr. Ballantini - Yes. (5-0). Motion was approved.

Commissioner Zwaga left the meeting at 5:04pm.

SP-11-22 Public hearing, review, and action on a petition submitted by Faizan e Madinah Islamic Center for a Special Use Permit for a Place of Worship in the B-1 (General Commercial) District for the property located at 1319 Veterans Parkway, Suite 2A. PIN: 14-35-252-022. (Ward 5).

Ms. Pemberton presented the staff report with a recommendation to approve the Special Use Permit. Staff noted that there may no longer be unabated compliance issues related to the property so the inclusion of a condition that those be corrected within a reasonable time in order address protect public health and safety impact of the proposed use may no longer be needed. The

additional condition for consideration is to help ensure parking compliance is continued as the building fills to capacity with additional tenants.

Commissioner Ballantini inquired as to how parking is calculated and how to ensure that there are not issues with parking if people start to complain.

Staff responded that off-street parking requirements in the Zoning Code are reviewed when evaluating a Special Use, if the uses meet the minimum requirements then the standard has been met, but there are also options for additional shared parking arrangements if the requirements of the zoning code are insufficient for the needs of the tenants in reality.

The Commissioner asked how many attendees are expected at one time for this proposed use. Staff explained that the parking requirements for Places of worship are based on either square footage or capacity; this use provides the same require by either evaluation and the stated capacity is 30 attendees.

Chair Straza opened the public hearing.

Attorney for the Petitioner, Joseph Dehn (201 W. Olive Street) stated that he had nothing additional to add after review of the Staff Report and presentation. He noted his belief that the standards for a Special Use are met and that, while the capacity for the facility is 30 people, the reality is that number will be spread out over the course of day with a typical maximum concurrent attendance of 12-15 being the norm.

Commissioner Straza inquired whether the facility was previously at a different location. Mr. Dehn did not know. Ms. Pemberton noted the prior location near the intersection of Hershey and Empire.

No Board discussion was held.

Commissioner Harris made a motion to recommend approval of the petition submitted by Faizan e Madinah Islamic Center for a Special Use Permit for a Place of Worship in the B-1 (General Commercial) District for the property located at 1319 Veterans Parkway, Suite 2A, with the conditions 1) that all existing violations of City of Bloomington Code be abated within 30 days of the effective date of this Special Use Permit, or without further action by the Council, the special use or authorization thereof shall be null and void; and 2) That the property owner and/or manager review the parking requirements of potential lessees for vacant suites and contact the Planning Division to identify a way forward if a proposed use would result in the property's inability to meet the off-street parking requirements of the Zoning Code. Commissioner Williams seconded.

Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, and Mr. Ballantini - Yes. (4-0). Motion was approved.

Commissioner Ballantini made a motion to establish findings of fact that all standards of approval for a Special Use Permit are met. Commissioner Harris seconded.

Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, and Mr. Ballantini - Yes. (4-0). Motion was approved.

Staff noted this will go to City Council on September 12, 2022.

SP-12-22 Public hearing, review, and action on a petition submitted by All About Auto for Vehicle Repair and Service in the M-1 (Restricted Manufacturing) District for the property located at 604 W. Division Street. PINs: 14-33-302-016 and 14-33-302-013. (Ward 7).

Ms. Pemberton presented the staff report with a recommendation to approve the Special Use Permit. Staff explained the history associated with this property and case, including the existence of two Special Use Permits associated with Vehicle Sales and Service (1321 Mason) and Vehicle Repair and Service (604 W. Division Street). She clarified that some of the conditions present in the recommended motion are to provide clarity on the construction and operational standards for the proposed use, in addition to those that will help ensure construction and use occurs in an appropriate order throughout the phases of the expansion project. Staff noted that the Petitioner has submitted an updated site plan since the staff report was issued and that it includes many of the items of concern, so the number of conditions recommended for action have been reduced since the writing of the staff report.

Commissioner Straza inquired about updated items. Ms. Pemberton stated that the recommended motion in the presentation has been adjusted to reflect the updated site plan.

Commissioner Ballantini asked where the main entrance will be. Ms. Pemberton explained the main entrance will remain off Division Street; the offices will be moved into the new building with working bays. He asked about fencing the area along Division Street on the east side of the existing building. Staff stated the area does not have to be fenced in at this time but will once it is used as outdoor storage. The existing gravel drive will need to be paved for continued use or could be closed and landscaped.

Chair Straza opened the public hearing.

Gary Shultz, Attorney for the Petitioner (5633 N 1750 East Rd, Heyworth, IL), provided further background on the reason for the petition. Nothing additional to add after review of the Staff Report and presentation.

No additional testimony was provided.

No Board discussion was held.

Commissioner Harris made a motion to establish findings of fact that all standards of approval for a Special Use Permit are met. Commissioner Ballantini seconded.

Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, and Mr. Ballantini - Yes. (4-0). Motion was approved.

Commissioner Harris made a Motion to recommend approval of the petition submitted by All About Auto for a Special Use Permit for Vehicle Repair and Service for the property located at 604 W. Division Street, with the following conditions:

- On or before the effective date, and for the duration of this permit:
 - Inoperable vehicles shall not be stored in parking areas designated to meet the off-street parking requirements of the Zoning Code, nor may operable vehicles be stored there for more than 24 hours.
 - No outdoor storage shall be allowed in any area not indicated on the approved site plan or approved by the Zoning Enforcement Officer.
 - All refuse disposal receptacles shall be located and screened in accordance with § 44-1308E.
- Within 60 days of the effective date of this Permit:
 - A 6-foot opaque fence shall be added along the western side of the parking area adjacent to 1321 Mason Street—in order to meet the purpose and intent of Ordinance 2020-83—as indicated on the Site Plan.
 - An additional site plan for the required off-street parking spaces that indicates compliance with § 44-1206, including stall size, location of curbing and vehicle stops, and proof of independent maneuverability.
- As part of the construction of the expanded use:
 - Landscaping plans prepared and stamped by a professional landscape architect or designer, shall be provided for approval, as per § 44-1303 and in conformance with § 44-1304 though § 44-1307.
 - Prior to operation of the “Future Outdoor Storage Area,” a 6-foot fence shall be erected to completely screen the subject area, per § 44-1308B(1), as indicated on the Site Plan.
 - Prior to operation of the “Future Parking Area,” a 6-foot fence shall be erected to completely screen the subject area, per § 44-1308B(1), as indicated on the Site Plan.

Commissioner Williams seconded.

Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, and Mr. Ballantini - Yes. (4-0). Motion was approved.

Staff noted this will go to City Council on September 12, 2022.

OLD BUSINESS

Elections for Chair and Vice-Chair

Commissioner Harris expressed her preference to have everyone there to vote and made a motion to table the item to the next meeting. Seconded by Straza. A voice vote was held. All were in favor (4-0).

NEW BUSINESS

None.

ADJOURNMENT

Commissioner Harris made the motion to adjourn. Commissioner Straza seconded. Voice vote was held. All were in favor. (4-0)

The meeting was adjourned at 5:35 p.m.