

ZONING BOARD OF APPEALS MINUTES OF APRIL 11, 2006

Meeting called to order by Chairman Zimmermann at 4:45 p.m. in the Executive Conference Room, City Hall Plaza.

PRESENT: Marvin Duerr, Dean Markwardt, Wallace Reek, Don Wink and Karl Zimmermann

ALSO PRESENT: Planner/Zoning Administrator Curtiss, Director of Planning and Economic Development Miller, Deputy Clerk Panzer, Alderperson Feddick, Chris Egger and Faye Egger

ZB06-06 Motion by Wink, second by Markwardt to approve the minutes of February 14, 2006 as submitted. All Ayes.

Motion carried.

Deputy Clerk read the appeal of Egger Meadowlands LLC. Appealing a paving order issued by the City of Marshfield Zoning Administrator on property located at 1822 E. 24th Street, Marshfield, WI 54449. The order declares that all required parking and loading spaces and access drives for the development shall be paved pursuant to Section 18-89 (6)(c) of the Municipal Code of the City of Marshfield.

Planner/Zoning Administrator Curtiss gave a background and analysis of the outstanding zoning violation. She explained the choices that the Zoning Board of Appeals has in this matter.

Chris Egger thought that there must be some statute of limitations for people after a period of 28 years.

Planner/Zoning Administrator Curtiss said that she consulted with the City Attorney and there is no statute of limitations, only if it were grandfathered prior to the development or grandfathered prior to the 1979 date.

Chris Egger felt that Planner/Zoning Administrator Curtiss should not have talked with the City Attorney on this case, because it is a conflict of interest.

Planner/Zoning Administrator Curtiss explained that her question was specific not to the case but to the statute of limitations regarding a development and if that development would be grandfathered.

Chris Egger asked if she inquired as to when this development actually began.

Zimmermann asked Chris Egger to make his statement and not examine and cross examine the Planner /Zoning Administrator.

Chris Egger asked if he could ask questions.

Zimmermann said no, not at this point you are here to make a presentation to the Board of Appeals.

Chris Egger felt that the first development started with the purchase of the land and the agreement with the Industrial Park Authority to start this operation and the only way it could be done was with a proposal and with an offer to purchase and that would constitute development. When this development was started there was no paving ordinance in effect. In fact the paving ordinance only came into effect a whole year after that. A deal was made with the Industrial Park Authority to develop under those conditions. A request was submitted to the Industrial Park Authority and the request included an offer to purchase and a

proposed development plan. This was done back in 1978. Even prior to the purchase date of the land, which was August 31, 1978, which is a year and a day more than the implementation of that new ordinance in September of 1979.

Zimmermann asked what the situation was with the property now.

Chris Egger explained that it is pretty well cleaned up outside, there are still buildings that need to be cleaned up inside, lighting fixtures still need to be put in, there is a toilet that has to be repaired, furnaces that have to be put in, there is a lot of work to be done before it can really be rented out. The property is listed with Rita Blenker for rental and there hasn't been much happening. Now if this situation comes up that I have to have another \$20,000 cost to deal with, then I will have to put it up for sale and you are in essence putting me out of business, because I can't afford another \$20,000.

Costs that Mr. Egger said that he incurred so far with the purchase of the property:

\$13,000 of back taxes

\$3,000 in taxes

\$2,500 heat bill

Electrical expenses

\$95,000 note at the bank with a payment of \$574.00 a month.

Chris Egger said that his brother's shop was there for 20 years. He never had it paved, it never needed to be paved, and there is no reason to pave it.

Markwardt asked Mr. Egger when he purchased the land from his brother.

Chris Egger responded August 11, 2005. The place was a mess. There were hundreds of refrigerators, lazy boys, tons of metal and old palettes. You name it, it was out there.

Markwardt referred to a letter that Chris Egger sent to the Zoning Board of Appeals members where he made reference to a figure of \$20,000 for the cost of paving. He asked how extensive the paving is.

Chris Egger said that the estimate is from American Asphalt in the amount of \$16,000, but the land has to be prepped. It has to be landscaped so that you can put the blacktop down.

Markwardt asked what area and how much area had to be paved.

The Zoning Board of Appeals members reviewed a layout that Dan Knoeck came up with for the area that needs to be blacktopped.

Chris Egger mentioned that he spoke with Russ Schuster who owns property in the Industrial Park and Russ has not received a paving order yet. He feels for the purpose of not knowing what is going in there, paving wouldn't be applicable.

Chris Egger doesn't agree with the Planner/Administrator's specific benefits of "hard surface" requirements that was listed in her e-mail to him.

Markwardt stated for the record that he was on the property and spoke with Chris Egger's brother, Dave.

Zimmerman said that the Zoning Board of Appeals can modify the order. One suggestion would be to grant some additional time so that Mr. Egger can get the buildings rented.

Markwardt asked if there was another paving order issued.

Planner/Zoning Administrator Curtiss replied yes, there was one issued in 1994 by Roland Donath to the previous property owner.

Chris Egger said that when he bought this property he knew nothing about this order. I bought something that sat there for 28 years and had never been blacktopped. Who would have thought that it would have to be blacktopped after 28 years?

Faye Egger spoke in opposition to the paving order. She feels that this order is unrealistic. This paving order is being issued and we are being held to an ordinance that has been lax for so many years. She said that she understands the City's desire to have everything uniform, but she believes that this will put them out of business. She explained that a family situation done out of love has gotten them into this. She doesn't think that the City has to be so rigid on this since it hasn't been brought up for the last 28 years.

Amber Miller explained that part of the Municipal Code specifically states that when a violation is brought to the attention of Administrator's of the code it is then the responsibility of the Administrator of that section of the code to deal with it.

Bonnie Curtiss read Section 18-36 (1)(a), Methods of enforcement of the Municipal Code which states upon finding that any of the provisions of this chapter are being violated or upon finding a condition which may lead to a violation, the administrator shall notify in writing the person responsible for such violation or condition, ordering the action necessary to correct such condition or violation.

Chris Egger said that he was told by the Mayor and City Administrator that he doesn't have a right to talk to City Attorney Hutchinson, because that would be a conflict of interest since Mr. Hutchinson is handling his mother's probate. He spoke with two attorneys and they told him that he has a right to talk to the City Attorney. He felt that he could have had a lot of his questions answered by talking with the City Attorney.

Markwardt felt that the facts are pretty clear, but he sympathized with the Eggers since they are caught between a rock and a hard place here with this situation. He wondered if there was some modification, some stipulation, some way that we could work this out so that the hardship wouldn't be too severe yet we would not ignore the requirement of the ordinance. Are there any reasonable alternatives?

Rent figures and possible cash flow from renting the buildings out was discussed in detail.

Zimmermann felt that since Mr. Egger is looking at renting these buildings out, at some point there will be cash flow. It is a matter of getting them rented. He asked Chris if he had a time line as to when the buildings would be completed and ready for renting.

Chris Egger said that he is afraid to move into one of the buildings, because he might have to sell it. This blacktop isn't going to do anybody any good.

Wink asked if time would help.

Chris Egger said that it couldn't hurt anything.

Faye Egger felt that the work that Chris has already done in the Industrial Park has helped the City of Marshfield immensely. He has worked wonders and then to get this slapped on us is extremely disheartening.

Duerr said that Chris has done a fantastic job on the clean up out there. He explained that he understands what hardship and business is, because he has been in business for the last 19 years and he has had to comply to laws also. He mentioned some of the laws that he has to comply with and said that he doesn't get grants, variances or money from anyone, but he does sometimes get additional time sometimes to comply. 30, 60 or 90 days and he didn't feel that it would be out of line for the committee to grant Mr. Egger a year's time from when the order was given to pave that and to see if he can turn that business around. He felt that a year's time would tell whether or not Mr. Egger will have a positive cash flow or not. If at that time he can't make that business go, as any good businessman he would have to dump it.

ZB06-07 Motion by Duerr, second by Wink to grant Chris Egger, Egger Meadowlands LLC one year from the date of May 30, 2006 to comply with the paving order. (Deadline is now May 30, 2007.) All Ayes.

Motion carried

Motion by Duerr, second by Wink to adjourn at 5:29 p.m.

Motion carried

Lori A. Panzer
Deputy City Clerk