

ZONING BOARD OF APPEALS MINUTES OF DECEMBER 12, 2006

Meeting called to order by Vice Chairman Duerr at 4:46 p.m. in the Executive Conference Room, City Hall Plaza.

PRESENT: Marvin Duerr, Dean Markwardt, Wallace Reek, Don Wink, 1st Alternate Jim Asplin and 2nd Alternate Donald Schnitzler

EXCUSED: Karl Zimmermann

ALSO PRESENT: Planner/Zoning Administrator Curtiss, Deputy Clerk Panzer and Dennis Jacobsen

ZB06-037 Motion by Wink, second by Asplin to approve the minutes of November 14, 2006 as submitted. All Ayes.

Motion carried

Vice Chairman Duerr read the appeal of Dennis R. Jacobsen. Appealing an order issued by the City of Marshfield Zoning Administrator to pave the parking, loading spaces and access drives for development at 3712 S. Maple Avenue, Marshfield, WI 54449. The order requires "hard-surfacing" pursuant to Section 18-89 (6) (c) of the Municipal Code of the City of Marshfield.

This item was held over from the October 10, 2006 meeting at the request of the applicant and from the November 14, 2006 meeting due to his absence.

BACKGROUND

Orders have existed on this property dating back to 1994 to complete the required hard-surfacing of parking, loading and access drives for the development. This work was never completed and the property remains with an outstanding zoning violation. The property has changed hands since 1994. The current owner, Mr. Jacobsen, has been noticed regarding the outstanding issue.

ANALYSIS

Section 18-89(6)(c) of the Municipal Code requires that all parking, loading spaces and access drives shall be paved with concrete or bituminous pavement, within one year of occupancy. This hard surface requirement has been in effect since 1979.

The subject property was developed in 1987, subject to the hard-surfacing requirement. Development is defined in Section 18-03(2) of the Municipal Code as *performance of any building or mining operation, or the making of any material change in the use or appearance of any structure or land*. Development and "use" of property generates parking, loading and access requirements. Section 18-89, Table 18-89A: Schedule of Off-Street Parking Spaces identifies the number of required parking spaces for the current warehousing use as 1 per 1,200 square feet of net floor area. Based on a 2,400-sq.ft. building, a minimum of 2 parking spaces is required. A loading space is also required for this business with bulk pickup and delivery on the site. Section 18-89 outlines minimum size and design requirements for parking & loading spaces.

Design standards within the Municipal Code state that parking spaces shall be a minimum of 170 square feet in area, and loading spaces to accommodate tractors and trailers shall be a minimum of 650 square feet in area.

Hard-surfacing is required by code for reasons tied to the general purposes of zoning; specifically, preserving and enhancing property values, aesthetic values and conserving the taxable value of land and buildings throughout the City of Marshfield. Other reasons for hard-surface requirements are to prevent the cumulative effects and maintenance costs of gravel and dirt runoff into the streets, ditches & City's

storm sewer system, and to provide a dust-free surface.

RECOMMENDATION

None, decision was rendered based on non-discretionary plain language of Section 18-89 (6) (c).

Planner/Zoning Administrator Curtiss recommended that if the Board of Appeals overturns or modifies her decision that they consider the following conditions:

- Require that the driveway approach within the right-of-way be paved with asphalt or concrete.
- Require that the driveway entrance be paved with asphalt or concrete for at least the first 25-ft from the right-of-way.
- Require that the loading space be a hard-surfaced area designed to the minimum standards for tractor trailers, as specified within Section 18-89.
- Maintain the remainder of the parking/access area to prevent potholes, weeds or standing water.

Dennis Jacobsen said that he lived in Marshfield for 25 years and then bought this property and did not know that there was such a thing as paving ordinances. He distributed a diagram of the General Farm Supply and explained where his property was located and mentioned the following details:

- Highway 13 is four lanes and that they tried backing a semi across the Highway on two occasions and never tried it again. It was just too dangerous.
- There is no storm sewer.
- There is no curb and gutter or sidewalk.

He said that he added a concrete loading and unloading area to meet the needs of his business after he purchased it. This area is 28' x 12'. There is also sidewalk there that comes into the retail store. The main function of his business is a pet food warehouse. We have one full time employee and we do a very minimal amount of retail sales there. The other functions are the maintenance. His issue with paving the area is that he has a lot of semis coming in and out and their trailers are 53' long so when they try to turn around on a lot that is only 100' wide their rear running gears are at a stationary pivot and they have to pivot the entire thing around. The owner/operator doesn't want to do that with their trucks on a paved surface, because of the stress and the damage that it can create on the rear end of the truck. Not only does it create damage on the trucks, but the trucks would just tear the pavement up anyway. For that reason, he would really like to keep that granite out there. To comply with the ordinance, he felt it would be agreeable to add another 10' strip to the loading dock area. This would allow plenty of room there for parking where the entire vehicles would be on the pavement.

Planner/Zoning Administrator Curtiss explained that the whole idea is to have a hard surface when the trucks pull in.

Dennis Jacobsen explained the delivery process in detail. He said in the winter, they have the semi pull ahead 40' so they can unload on gravel for traction purposes. You can't unload on snow and ice. They are always dumping sand and salt on their paved area.

Asplin said that he could see Mr. Jacobsen's dilemma, because he worked for Marshfield Wilburt Vault for 38 years, and had the same problems with their big trucks. You get a heavy truck on concrete and you start to spin that thing around. He said that they popped the tires right off the rims trying to swing the trailer around in order to make the curb, but on gravel you can just spin them around like there is nothing there.

Duerr said that he visited Rice Capitol to take a look at a small radius turn which is probably about the same dimension parking lot as Dennis Jacobsen's. He talked to Bruno and brought him out to the parking lot and asked him how the parking lot got busted up. Bruno said that when the carpet trucks and semis come in to the lot in a small radius that is what happens. That store is only a few years old on Highway 13 and that entire parking lot is completely busted up. There is about 8 or 10 patched spots that they have done already. Bruno felt that the best possible way would be to have an apron where the vehicles drive in and the rest should be granite.

Planner/Zoning Administrator Curtiss explained that there was a change of use in this property. Previously it was a car lot. It was a whole different retail type use without the deliveries and without the semis, so the site functioned well. Should it have been developed with a warehousing or distribution or delivery type function where semis are going to have to come in it probably would have been developed differently or maybe not even at all with that use in mind. It is some circumstances of this property and how the use changed without some early communication and contacts with the city to identify these requirements.

Duerr responded that if aesthetically the property would have stayed a car lot than the code itself would be applicable, because a car lot you can hard surface, but when you are talking about warehousing and semis and the commercial use of the property the code doesn't meet the property use. The property should have never been developed for the business that is in there at the present time because of the size of the lot.

Dennis Jacobsen responded that had he known that there was a paving ordinance like this there would have been no dilemma. He would have never purchased it. In terms of the aesthetics and the value of that property for the use it is, adding additional pavement isn't really going to do anything for the aesthetics or value. The ditch is very deep and it always mowed and we keep it free of weeds. The granite is dragged regularly. It would make sense to add another concrete strip to be in some compliance with your ordinance and it would make sense for the business use of that property.

Wink referred to the four conditions that the Planner/Zoning Administrator recommended for consideration and asked Mr. Jacobsen if he had any problems with any of the conditions listed.

Dennis Jacobsen said that he would agree to paving the driveway right-of-way and he would agree to adding 10' to the loading dock and he is already maintaining the remainder of the parking/access area. He felt that doing these things would make sense for safety purposes and it would make sense for the aesthetics.

Duerr asked Planner/Zoning Administrator Curtiss how you would come off of a State highway with an approach into this driveway without curb and gutter.

Planner/Zoning Administrator Curtiss said that there are guidelines and she would have to check with the City Engineer.

ZB06-038 Motion by Markwardt, second by Schnitzler to grant the appeal of Dennis R. Jacobsen with the conditions that the driveway approach within the right-of-way be paved, that an additional 10' be paved to the existing apron in front of the building and that the remainder of the parking access area is maintained to prevent potholes, weeds or standing water. Duerr abstained. All Ayes.

Motion carried

ZB06-039 Motion by Asplin, second by Wink to postpone item #4, Review of proposed rules of procedure. All Ayes.

Motion carried

Motion by Wink, second by Reek to adjourn at 5:40 p.m.

Motion carried

Lori A. Panzer
Deputy City Clerk