

PLANNING AND ZONING COMMISSION MINUTES
City of Geneva
109 James Street - City Council Chambers

August 25, 2022 — Meeting #45

Chairman Stocking called the meeting of the Geneva Planning and Zoning Commission to order at 7:00 p.m., and read a statement of procedures for participation in the meeting for those present remotely and in person.

Roll Call

Present: Chairman Scott Stocking, Commissioners Mim Evans; Rebecca Holoman; Adam Matyskiel; John Mead; Tim Moran; and Michael Slifka

Staff Present: Director of Community Development David DeGroot; City Planner Chayton True and Assistant Planner Matt Buesing

Also Present: Paula Price, Architect on behalf of JNK Enterprises, Inc. for Khanna Dentistry; Bob Byrnes, Applicant and Property Owner of Batavia Avenue Properties, LLC; Kristine Wesner, Court Reporter; and Recording Secretary Vanessa Quail

Approval of the Agenda

Motion by Commissioner Slifka, second by Commissioner Matyskiel to approve the agenda. Motion carried unanimously by voice vote 7-0.

Approval of July 28, 2022 Minutes

Motion by Commissioner Moran, second by Commissioner Mead to approve the August 11, 2022, Minutes. Motion carried unanimously by voice vote 7-0.

Public Hearings

Khanna Dentistry - Request for a Variation from Section 11-6F-4 of the Geneva Zoning Ordinance to reduce the required street yard setback from 20 ft. to 12.5 ft. for a proposed commercial building.

Location: Generally located on the south side of E. State Street between Harrison Street and Sandholm Street, P.I.N. 12-02-380-003

Applicant: JNK Enterprises, Inc.

City Planner True read the contents of the planning file. Chairman Stocking administered the oath to those who will testify, and invited Paula Price, architect of record for the project, to speak.

Ms. Price explained that Dr. Khanna bought parcel in 2005 or 2006, and the plans were ready for construction by the end of 2006, and compliant with all of the code requirements at the time; but the project was put on hold because of the ensuing recession. Applicant is now ready to proceed by Spring of 2023; but is making the subject request because the easement does not work with what was originally drawn, due to the State Street Widening Project. She noted that the easement needs to be reduced to 12.5 feet in order to accommodate the required parking for what will ultimately be a 5,000 square-foot building where Dr. Khanna will move his practice.

Commissioners Moran, Mead and Slifka inquired about various scenarios in which the space could be modified without the variance, and what result that might have on the business. Ms. Price explained that Dr. Khanna will retain 3,000 square feet for his own practice, and lease the other 2,000 feet; and that without the variance, the plan would lose 500-700 square feet, which would be difficult to lease. She noted that it would not be beneficial to cut tenant space in the front of the building. Director DeGroot added that there were a number of different variations the applicant could have pursued, but because of the small site, there were limits to those options.

Chairman Stocking asked when construction will begin, and noted that the road is in serious disrepair. Director DeGroot indicated that the construction for the IDOT widening project will begin in Spring of 2023. Commissioners Matyskiel and Moran noted that the plans were completed before IDOT's plans for the widening project; and that the Applicant has no control over that.

Chairman Stocking asked if there were any participants online who wish to speak; and there were none.

Motion to Close the Public Hearing made by Commissioner Moran, second by Commissioner Evans. Roll Call:

AYE: Evans, Holoman, Matyskiel, Mead, Moran, Slifka, and Stocking

NAY: None

MOTION CARRIED 7-0

Wished would have spent more time with staff in discussions about seeking a variance on the south setback, it would not be worthwhile to ask the applicant to resubmit such plans. Commissioner Evans concurred. There were no further objections from the Commissioners. They agreed that the variance was fair, given the fact that IDOT took up land for the widening project.

Motion for the approval of a variation from Section 11-6F-4, B-4 Business District, Lot and Area Requirements, to decrease the street yard setback from 20 feet to 12.5 feet, for the property located generally on the south side of E. State Street between Harrison Street and Sandholm Street [P.I.N. 12-02-380-003], subject to the findings of fact contained in the staff report. Roll Call:

AYE: Evans, Holoman, Matyskiel, Mead, Moran, Slifka, and Stocking

NAY: None

MOTION CARRIED 7-0

City Planner True noted that this matter will go before the City Council on September 6th.

Sign Variation Text Amendment - Request to amend Section 11-14-5A(C)(3) of the Geneva Zoning Ordinance to allow variations considering two (2) additional signs beyond the maximum allowed amount of signs upon a zoning lot.

Location: City of Geneva

Applicant: Rob Byrnes of Batavia Avenue Properties, LLC

Sign Variation - Requests to allow two (2) additional freestanding signs at 1950-2000 Batavia Avenue.

Location: 1950-2000 S. Batavia Avenue, P.I.N. 12-15-126-009

Applicant: Rob Byrnes of Batavia Avenue Properties, LLC

City Planner True read the contents of the planning file, and Chairman Stocking invited applicant to speak.

Mr. Rob Byrnes explained that Batavia Avenue Properties LLC has owned the property for over 20 years. He explained that he has some tenants who requested their business names be added to the building signage for their businesses; and after doing so, he learned those signs were erected without knowledge of any requirements for a permit to do so. In the process of remedying the unpermitted signage, he learned that they also exceeded the number of allowable signs according to the current ordinance. He proceeded to apply for a variation because he has three signs on one zoning lot where only one is allowed; and he would only be able to ask for one additional - whereas he needed to ask for two. He explained that the campus has been there for a long time along Route 31, and it is one lot which is a total of 19 acres. He said that those existing signs have been there many years; and although they exceed the allowable, they are necessary for visitors to navigate the large campus along a busy street where it is not safe for motorists to slow down to find a business. He noted that

the lease he has for one of the larger tenants requires him to have signage. That same tenant has signage both on the building and on the monument sign.

Commissioner Mead agreed that it makes sense to have a sign at both of the two entrances; but he questioned the need for an additional sign on the building. Mr. Byrnes explained that there are two major tenants in the front building; and each has their own entrance with no common area. He said the signage on the buildings is helpful to easily and quickly identify the building visitors are trying to find. Without these signs, it would be easy to go to the wrong building, given the number of tenants occupying space on the campus.

Commissioner Moran expressed concern for the request for a text amendment, likening it to the discussion relating to the proposed Oscar Swan cell tower. He said that a text amendment opens the door to a drastic increase of the numbers of signs throughout the city. He said he is not convinced there is a community-wide desire to allow additional signage. Commissioner Holoman led discussion regarding the allowable dimensions of signs under the current zoning. There was further discussion led by Commissioner Evans as to what would qualify as nonconforming, considering the amount of time these signs have been present.

Commissioner Matyskiel asked if it would be possible to subdivide the parcel into two zoning lots. Director DeGroot explained that it would be hard to do that with causing other zoning problems.

Commissioner Evans said that she is sympathetic to the size of the campus, but that two signs should be workable. She pointed out that the problem is more pertaining to the fact that the one tenant requires signage as part of the lease. Director DeGroot asked if that sign on the building is particular to the lease, or if the lease merely states a requirement for any signage. Mr. Byrnes explained that the building sign itself is part of the lease, and that it was actually approved by the city when the tenant moved in and obtained the appropriate permit for that sign at the time.

Commissioner Slifka asked if the property could have more than one sign if it were on a corner; and City Planner True explained that it would be eligible for two wall signs, and not two ground signs. He also stated that if this variation is granted, the land owner could take all the signs down and redesign them for a total of three, also utilizing directional signs.

Commissioner Mead suggested that the most critical signs would be for the addresses at 1950 and 2000, also noting that the one tenant's building sign is a problem. He asked if there had been any discussion with the tenant about allowing their sign to be moved to the entrance at the street, and redesigned so that the variance could be requested within the current zoning ordinance. Mr. Byrnes explained that he has not discussed the matter with the tenant, because it is one of the largest tenants in Geneva, and he felt it important to support them in what are the terms of the lease. He added

that the 1950 and 2000 signing is important for safety, and that they signs have been there since Waste Management had occupied the space 25 years ago.

Chairman Stocking questioned if the commission would be comfortable relaxing the current requirements, given the fact that a lot of time and effort was put into drafting the sign ordinance in a way that would discourage variations. He acknowledged that this is an unfortunate situation; and noted that in his experience, sign ordinances are hard to enforce, and there are many requests for exceptions.

Commissioner Matyskiel asked if it would be possible to calculate the size of signs in proportion to the size of the frontage. Director DeGroot said that could be a possibility for a text amendment.

Commissioner Evans asked if there could be an option to make this a PUD; and Director DeGroot said they could look into it since there is 670 feet of frontage, which is more than two city blocks. Commissioner Moran added that the PUD option would be laborious insofar as there would be tax and title issues which would also involve substantial cost to the owner. He said that he would be willing to consider amending the text based on a sign calculation in proportion to frontage. He suggested the commission table the discussion in order to have time to compare to other properties.

Commissioner Slifka said that he is concerned because the request for three signs is being driven by the goal of solving an existing problem and violation of the existing ordinance. He said that two 40-foot signs is reasonable; but that he does not agree with changing the text to fix this problem. He said that if it were not for the fact that the sign is incorporated into the lease, there would not be a need for the amendment request. He stated that he is sympathetic with the situation; but that he felt it was not a good idea.

Mr. Byrnes explained that he is not asking for anything new, that he was not aware of the violation, and that upon learning about the violation, he thought that the signs would have been grandfathered in. The commissioners agreed to table the discussion. City Planner True summarized the two questions brought up by the commissioners, namely: (1) whether or not one of the signs would qualify as nonconforming based on its history; and (2) Commissioner Matyskiel's recommendation for the calculation of signage in proportion to frontage. Commissioner Mead expressed concern over whether or not it is really the job of the commission to issue an advisory opinion on the nonconforming question. Director DeGroot confirmed that he will discuss with legal counsel on the first question and report back, and to explore other case studies in the city.

Motion to continue the public hearing for agenda items 5B and 5C to the regularly schedule Plan Commission meeting scheduled for September 22, 2022, to allow city staff to consider more narrowly changing the text relating to the number of

signs on lots in the City of Geneva, made by Commissioner Mead; and second by Commissioner Holoman. Roll Call:

AYE: Evans, Holoman, Matyskiel, Mead, Moran, Slifka, and Stocking

NAY: None

MOTION CARRIED 7-0

Fence Height Text Amendment - Zoning Ordinance text amendments to Section 11-2-2 (Definition of Words and Terms), Section 11-3-5 (Fences and Walls), and Chapter 15 (Zoning Illustrations), all related to the regulation of fences.

Applicant: The City of Geneva

City Planner True read the contents of the planning file; and Director DeGroot made a presentation the proposed amendments. He noted in particular that city staff routinely accepts applications for variances related to this topic. Director DeGroot described how this matter came about as a result of discussions between staff and alderpersons, because of inquiries from residents to either amend the City's fence height regulations or to pursue variations from the current regulations. He explained that the zoning ordinance currently limits the height of fences at 42 inches for street yards. The Committee of the Whole also evaluated the potential of increasing the allowable fencing height to four feet for all residential properties, increasing the allowable height for corner lot only, and increasing the allowable height to four feet only when required for a swimming pool, which would increase the allowable height to six feet in the rear yard of a through lot, and establishing opacity requirements for fences in street yards.

Commissioner Moran asked why this issue would not have been addressed at the time of the pool permit. Director DeGroot said that the residents do not want to reduce the years size, and in some case, the existing fence did not comply when the pool was installed. Commissioner Holoman asked if there were any recommendations for restrictions on fence materials, and Commissioner DeGroot said that none were proposed.

City Planner True asked if the commissioners read the public comment that was emailed. [The public comment was submitted via email by Trent and Martina Gunderson of Willowbrook Way, Geneva. Their comment expressed concern that the proposed amendment would not address their concern, because they are on a corner lot and would still be restricted to the 42 inches unless they sought a variance.] The commissioners indicated that they had received it.

After Director DeGroot's presentation, Commissioner Moran asked what role the commissioners have in this process. Director DeGroot and Chairman Stocking advised that the commission would authorize staff and/or add provisions to the draft.

Commissioner Moran said that the city has an opportunity to make the corner lot allowed to 48 inches, with the requirement that the opacity be included. He said that solves the problem and makes the ordinance more understandable. Commissioner Evans concurred that the 48 inches makes sense.

Commissioner Mead recalled that the presentation showed 8-10 other towns that went through similar discussions and made the change. He said that he favors the 48 inches with opacity of 30%. Commissioner Evans expressed concern as to whether or not people would be able to easily buy fencing with that opacity, and questioned if that is a standard product. Commissioner Holoman suggested that additional screening could be accomplished with trees and shrubs for privacy.

Commissioner Evans opened discussion regarding materials, particularly prohibiting chain link or chicken wire in the street yard. Director DeGroot indicated that the materials had not been included; but would be added if the commission wanted that.

Chariman Stocking invited any online participants. Two were present; but none wished to speak.

Director DeGroot confirmed with the commissioners that they accept the amendments as proposed, but would like to allow 48 inches in height in a corner street yard, with open fence requirements at 30% opacity. He also noted that the intent of the commissioners was to revisit materials and to prohibit chain link fences in the street yard. Commissioner Evans noted that the standard space between pickets is 2.5 inches. Commissioner DeGroot said staff would do additional research on the spacing.

Motion to Close the Public Hearing made by Commissioner Mead, second by Commissioner Matyskiel. Roll Call:

AYE: Evans, Holoman, Matyskiel, Mead, Moran, Slifka, and Stocking

NAY: None

MOTION CARRIED 7-0

Motion made by Commissioner Mead to approve a Zoning Ordinance text amendments to Section 11-2-2 (Definition of Words and Terms), Section 11-3-5 (Fences and Walls), and Chapter 15 (Zoning Illustrations), all related to the regulation of fences, subject to the findings of fact contained in the staff report, and further subject to two conditions: (1) that 48-inch fences be allowed in corner street yards, containing 30% opacity; and (2) the prohibition of chain link fences in any street yard. Second by Commissioner Moran. Roll Call:

AYE: Evans, Holoman, Matyskiel, Mead, Moran, Slifka, and Stocking

NAY: None

MOTION CARRIED 7-0

City Planner True said that the matter will go before the City Council on September 6th.

Public Comment - Chairman Stocking invited any further public comment. There were no additional comments in person or online.

Other Business

City Planner True provided an update on the active applications:

The Fox Valley Commerce Center project was heard and approved in City Council on August 22nd. The applicant is getting their permits and will be starting construction soon.

The Bullock Campus proposal is working on revisions staff gave them; and they will be resubmitting a second round of materials in the near future.

A lot of other applications have been coming in, including several variations and a PUD.

The September 8th scheduled meeting has no public hearings, and therefore may not take place; but the September 22nd scheduled meeting will include the sign issue on Batavia Avenue.

Director DeGroot announced that Commissioner Mead, Assistant Planner Buesing and he attending the Affordable Housing Summit. He said that it was a very worthwhile event and he commended the county for hosting it. Upon Commissioner Evans' request, Director DeGroot said that he will distribute any recordings of the summit if it is made available.

Director DeGroot also referenced an email reminder to the commissioners about the Illinois APA full day session for commissioners, which will be held on September 29th.

Adjournment

Motion made by Commissioner Evans to adjourn the meeting at 9:30 p.m. Motion carried unanimously by voice vote 7-0.