

Peoria Heights Zoning Board of Appeals

Rick Picl, Chairman

Minutes for June 1, 2020

A meeting of the Village of Peoria Heights Zoning Board of Appeals was held on June 1, 2020 at the Peoria Heights Village Hall.

The meeting was called to order by Chairman Rick Picl at 5:38pm.

The Acting Clerk, Mr. Matt Wigginton, called roll. Mr. Tijerina and Mr. Wiedeman were absent.

Chairman Picl entertained a motion to approve the minutes from the previous meeting held on April 16, 2020. The minutes were approved without objection.

Chairman Picl introduced the first order of Business:

A variance application by David Marfell, seeking a setback variance to permit reconstruction of a new garage in the same location as the original garage on the subject property, for the property located at 1013 East Euclid Avenue, Peoria Heights, Illinois, 61616 (PIN No. 14-22-177-010), which property is currently zoned R-1 (Low Density Residential District).

- Mr. Marfell discussed a new one stall garage to be placed on the exact location of an old garage that had been torn down in 2019 due to its condition and that his insurance company would not insure the building any longer. The property owner at 1009 East Euclid had agreed to the new garage as well. Chairman Picl inquired about the concrete footings but Mr. Marfell poured the concrete prior to realizing that Zoning variances would be required. Mr. Wigginton noted that this issue was pretty straight forward and would be a beatification of the neighborhood. Chairman Picl noted there was a letter submitted on this issue but it was not relevant and would not be read aloud. Mr. Wigginton noted it could be included in the minutes by reference. Mr. asked when the last garage was taken down and the answer was 1 year. Mr. Woo this was just taking care of maintaining the building.
  - o Will the strict application of the terms of the Zoning Code relating to the use, construction or alteration of buildings or structures or to the use of land impose practical difficulties or a particular hardship upon the Petitioner?
    - The board answered in the affirmative 7-0
  - o If the variation is granted, the property affected by the variation will remain in harmony with the general purport and intent of the Zoning Code.
    - The board answered in the affirmative 7-0
  - o The approval of the variation will not merely serve as a convenience to the Petitioner but is necessary to alleviate some demonstratable hardship on the Petitioner.
    - The board answered in the affirmative 7-0

- Can the variation requested by the Petitioner be granted without substantial detriment to the public good?
    - The board answered in the affirmative 7-0
  - Can the proposed variation be approved without impairing the general purpose and intent of the comprehensive plan as implemented by the Zoning Code?
    - The board answered in the affirmative 7-0
  - If the proposed variance involves a fence, will the fence conform with the standards set forth at subsections 10-4-7D2c(2)-D2c(5) of the Zoning Code?
    - The board answered that this was not applicable
- A motion was made by Mr. Woo to approve the requested variance with no condition and was seconded by Mr. Wigginton. The Board passed the variance request unanimously, 7-0.

Chairman Picl introduced the second and third order of Business:

Conditional Use/Special Use approval application filed by War Memorial/Paris Real Estate Trust, seeking approval of a conditional use permit for an adult use cannabis dispensary for the property located at 828-908 East War Memorial Drive and 829-911 East Paris Avenue, Peoria Heights, Illinois, 61616 (PIN Nos. 14-27-302-004; 14-27-302-005; 14-27-302-006; 14-27-302-007; 14-27-302-016, 14-27-302-017, 14-27-302-018, and 14-27-302-019), which property is currently zoned B-2 (General Retail Business District). Chairman Picl asked about the operation of the facility and the answer was to abide by Village regulations. The petitioner noted that the facility had yet to receive a license as this has been delayed due to COVID-19. The petitioner noted that one of the partners has an interest in another dispensary in the area so the lot and the building would continue. It was agreed that the site plan would also be discussed in conjunction. The petitioner noted there be traffic entering and exiting onto Paris Street. Chairman Picl inquired about the siding of the building and it would be a heavier material. Ms. Backs noted inquired about the green space and Vice Chairman Bucklar inquired about the front of the building not having landscaping in front of the building. The grass strip is on IDOT property.

- The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comforts or general welfare
  - The board answered in the affirmative 7-0
- The special use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood in which it is to be located
  - The board answered in the affirmative 6-1 with Mr. Wigginton voting in the negative
- The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
  - The board answered in the affirmative 7-0

- Adequate facilities access roads, drainage and/or necessary facilities have been or will be provided
  - The board answered in the affirmative 7-0
- Adequate measures have been or will be taken to provide ingress and egress designed as to minimize traffic congestion in the public streets.
  - The board answered in the affirmative 7-0
- If a public use or use providing public utility service, that such use of service shall meet a demonstratable public need and provide a public benefit
  - The board found this to be not applicable
- The special use shall, in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendation of the zoning board of appeals
  - The board answered in the affirmative 7-0
- A motion was made by Ms. Backs and seconded by Mr. Calloway to approve the special use with no conditions. The board answered in the affirmative 7-0. The Board then considered the site plan.
  - The establishment, maintenance, or operation of the site plan will not be detrimental to or endanger the public health, safety, morals, comforts or general welfare
    - The board answered in the affirmative 7-0
  - The site plan will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood in which it is to be located
    - The board answered in the affirmative 6-1 with Mr. Wigginton voting in the negative
  - The establishment of the site plan will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
    - The board answered in the affirmative 7-0
  - Adequate facilities access roads, drainage and/or necessary facilities have been or will be provided
    - The board answered in the affirmative 7-0
  - Adequate measures have been or will be taken to provide ingress and egress designed as to minimize traffic congestion in the public streets.
    - The board answered in the affirmative 7-0
  - If a public use or use providing public utility service, that such use of service shall meet a demonstratable public need and provide a public benefit

- The board found this to be not applicable
  - The site plan shall, in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendation of the zoning board of appeals
    - The board answered in the affirmative 7-0
- A motion was made by Ms. Backs and seconded by Vice Chair Bucklar to approve special use with a condition that the landscaping be as close to the site plan as shown. The board answered in the affirmative 7-0.

Chairman Picl introduced the fourth order of Business:

Conditional Use/Special Use approval application filed by Professional Armed Transport LLC, seeking approval of a conditional use permit for an adult use cannabis transporting organization for the property located at 4703 North Ellen Court, Peoria Heights, Illinois, 61616 (PIN No. 14-22-301-011), which property is currently zoned I-1 (Industrial District). Bill Englebrecht spoke on behalf of the petitioner and he noted that PATS is a family business that provides security services. The petitioner noted there would be no merchandise stored at the proposed facility. Chairman Picl asked about the vans and if they would be indoors or outdoors and the response was indoors. Ms. Backs inquired about greenspace and there was no plan to subtract from the existing lot. There were no public comments. Mr. Wigginton noted that this is an interesting street in terms of zoning and that there is residential and industrial. Chairman Picl also noted that the High School is 150 feet from the property and half the street is residential.

- The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comforts or general welfare
  - The board answered in the affirmative 7-0
- The special use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood in which it is to be located
  - The board answered in the affirmative 7-0
- The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
  - The board answered in the affirmative 7-0
- Adequate facilities access roads, drainage and/or necessary facilities have been or will be provided
  - The board answered in the affirmative 7-0
- Adequate measures have been or will be taken to provide ingress and egress designed as to minimize traffic congestion in the public streets.
  - The board answered in the affirmative 7-0

- If a public use or use providing public utility service, that such use of service shall meet a demonstratable public need and provide a public benefit
  - The board found this to be not applicable
- The special use shall, in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendation of the zoning board of appeals
  - The board answered in the affirmative 7-0

A motion was made by Mr. Woo and seconded by Ms. Backs to approve the special use with no conditions. The board answered in the affirmative 7-0.

Chairman Picl introduced the fifth, sixth, and seventh order of business:

Rezoning application filed by KDB Group, LLC seeking approval of a map amendment rezoning the property located at 1201 and 1203 East Kingman Avenue, Peoria Heights, Illinois, 61616 (PIN No. 14-22-183-002), from the current zoning classification of R-1 (Low Density Residential District) to B-2 (General Retail Business District).

Variance application filed by KDB Group, LLC seeking a variance to eliminate the off-street parking requirements as set forth in Chapter 9 of Article 10 of the Village Code for the property located at 1201 and 1203 East Kingman Avenue, Peoria Heights, Illinois, 61616 (PIN No. 14-22-183-002), which property is current zoned of R-1 (Low Density Residential District).

Site Plan approval application filed by KDB Group, LLC seeking approval of a site plan for development of a retail popcorn and candy shop for the property located at 1201 and 1203 East Kingman Avenue, Peoria Heights, Illinois, 61616 (PIN No. 14-22-183-002), which property is current zoned of R-1 (Low Density Residential District).

Greg Berkland, President and CEO of KDB Group spoke on behalf of the petitioner. Mr. Berkland noted that there was some negative feedback on the original plan of creating a restaurant at this property. The thought process is that it lends more to families, more suitable for this area and decreases traffic flow from the planned restaurant. Paul Corey from Farnsworth Group spoke about the plans to address the facility. The candy shop theme was thought to work nicely. The site includes four buildings and the house building and the garage would be connected with a breezeway to sell popcorn and have a popcorn factory. The upper level would be a retail space and the lower level, where the pumps are today, would be demonstrations. Two pumps will be preserved under a plexiglass style table. The design is to promote a very fun and playful candy shop. The landscaping was scaled back. Vice Chairman Bucklar did not see the location of the dumpsters. Mr. Corey did put it into the plan by physically drawing it onto the plan. There were some questions about the hours of operations and Chairman Picl asked why a re-zoning was required. Village Counsel noted that the code required this and a special use would be disingenuous. Mr. Wigginton inquired if KDB owned a property where they could add more parking and Mr. Berkland noted that they did. There were three letters read into the record in opposition to re-zoning and the proposals in general. The floor was open to public comment:

- Derek Smugie of 5105 N. Prospect Avenue objected to the re-zoning of the property and the site plan due to its location and how it is surrounded by all residential property. The pump house was designed to hide a utility and now it would have a nine-foot rainbow colored sign would

now be located. Mr. Smugie also noted that there were other locations where this commercial business could be located. The change of zoning would be a foot in the door and there was not a signed lease currently.

- Sarah Meyer of 5022 N. Park Place noted her appreciation of the KDB group in bringing up the property values but thought this project would be detrimental to her property values. Ms. Meyer also noted that the lot that KDB owned should not be a parking lot and that this is a residential area.
- Betsy Bathurst of 5021 N. Prospect Avenue noted that there are other popcorn shops in the area and hoped the business makes it. Ms. Bathurst also noted that the building is historical and it should be preserved and believed the KDB group would be able to do that. She believed that this would be a charming thing about the heights and asked that the sign and hours be limited.
- Jacob Lyon of 5043 N. Prospect Avenue noted that he had moved to the area and knew he needed to be in the Heights. Mr. Lyon believed that this is a residential area and there are always people parking in front of his house and adding a retail space is only going to cause safety issues. Mr. Lyon admitted the idea just thought the location should be different.
- There was a discussion from the board regarding the question. Mr. Wigginton noted that he did not know what would happen if there could not be a popcorn shop there. Chairman Picl said that renovating the building to support a residential home could run over one million dollars. Vice Chairman Bucklar noted that zoning is currently moving toward mixed-use zoning as is and that she did not envision this business being that highly trafficked in terms of parking and thought there should be a condition on the parking variance to allow only a popcorn shop. Mr. Woo believed that this would be a walking destination. Mr. Berkland noted that things were not “shady” and there was nothing underhanded going on.
- There were no findings of fact for the zoning change. Vice Chairman Bucklar made the motion to change the zoning from R1 to B2 and Mr. Wigginton seconded. The debate on the motion ensued and Mr. Wigginton noted that it would be the responsibility of the entirety of the populace of the Village to maintain this building if this lease failed and that if it the goal to maintain the history of this building, then the option seems limited to what could be done. Mr. Calloway noted that he would love to walk down the street and go to this candy shop. Chairman Picl put question to vote and the motion passed 6-1 with Ms. Backs voting in the negative.
- The variance was then discussed. Mr. Matthew Wigginton noting that this should be the most restrictive and contain the most conditions because the variance is the one area that the Zoning Appeals Board can control. Mr. Calloway inquired about parking and Ms. Backs noted that some special events run longer than 8-9pm. Chairman Picl said a special events clause could be added. Chairman Picl also inquired about the limits of people contained within the facility. Vice Chairman Bucklar inquired of Mr. Woo of what the fire department’s rules would be.
- Mr. Calloway then excused himself and Chairman Picl noted there would be a short break. Fire Chief Walters then attended the meeting and discussed the requirements in terms of fire code and how the use of the space could determine the capacity of the facility.
- 
- The findings of fact were then read:

- Will the strict application of the terms of the Zoning Code relating to the use, construction or alteration of buildings or structures or to the use of land impose practical difficulties or a particular hardship upon the Petitioner?
  - The board answered in the affirmative 7-0
- If the variation is granted, the property affected by the variation will remain in harmony with the general purport and intent of the Zoning Code.
  - The board answered in the affirmative 7-0
- The approval of the variation will not merely serve as a convenience to the Petitioner but is necessary to alleviate some demonstratable hardship on the Petitioner.
  - The board answered in the affirmative 7-0
- Can the variation requested by the Petitioner be granted without substantial detriment to the public good?
  - The board answered in the affirmative 5-2 with Ms. Backs and Mr. Cady voting in the negative
- Can the proposed variation be approved without impairing the general purpose and intent of the comprehensive plan as implemented by the Zoning Code?
  - The board answered in the affirmative 7-0
- If the proposed variance involves a fence, will the fence conform with the standards set forth at subsections 10-4-7D2c(2)-D2c(5) of the Zoning Code?
  - The board answered that this was not applicable
- A motion was made by Mr. Wigginton to approve the requested parking variance with conditions on the time of operation closing at 8pm on weekdays and 9pm on weekends and close at the end of special events at Tower Park and was seconded by Vice Chairman Bucklar. The Board passed the variance request unanimously, 7-0. The Board then addressed the site plan.
  - The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comforts or general welfare
    - The board answered in the affirmative 7-0
  - The special use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood in which it is to be located
    - The board answered in the affirmative 7-0
  - The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
    - The board answered in the affirmative 7-0

- Adequate facilities access roads, drainage and/or necessary facilities have been or will be provided
  - The board answered in the affirmative 7-0
- Adequate measures have been or will be taken to provide ingress and egress designed as to minimize traffic congestion in the public streets.
  - The board answered in the affirmative 7-0
- If a public use or use providing public utility service, that such use of service shall meet a demonstratable public need and provide a public benefit
  - The board found this to be not applicable
- The special use shall, in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendation of the zoning board of appeals
  - The board answered in the affirmative 7-0
- A motion was made by Mr. Woo and seconded by Ms. Backs to approve the site plan with conditions, including preserving landscaping as presented, limiting the front yard sign to six feet illuminated toward prospect during business hours and a four-foot sign in the rear of the property which will not be illuminated. The board answered in the affirmative 7-0.

The last order of business was discussed which was an introduction to the Atrium Hotel project which will be further discussed at the June 22, 2020 meeting. KDB Group and Farnsworth discussed the project. The meeting was adjourned at 9:26pm.