

ARLINGTON PLANNING & ZONING BOARD
MEETING MINUTES
JULY 10, 2008

The meeting was called to order at 7:00 p.m., Chairman Nagel presiding.

Members Present: Grabitske, Kreft, Chairman Nagel, Pinske, Councilmember Curt Reetz

Members Absent: Hislop, Haggenmiller, Kramer, Mielke

Also Present: P&Z Administrator Cynthia Smith-Strack, Wade Schneider, Kim Vigen

It was the consensus of the Planning & Zoning Committee that the agenda stood approved as presented.

Motion by Grabitske, seconded by Kreft, and passed by unanimous vote to approve the minutes from the June 5, 2008 meeting as presented.

Chairman Nagel recessed the regular meeting to hold a public hearing.

Conditional Use Permit: 118 West Main Street, Wade Schneider, d/b/a After Burner Auto Body

Chairman Nagel called to order the public hearing regarding the request for a Conditional Use Permit from Wade Schneider d/b/a After Burner Auto Body at 118 West Main Street. It was noted that Wade Schneider and Kim Vigen were present. Smith-Strack explained that the property is not in compliance (nuisance issues) with the current zoning. She explained that she had met with Schneider on site and discussed the nuisance issues. The Committee reviewed a site plan that allowed outdoor storage for 10 vehicles and 4 units/bays for parts. Smith-Strack recommended approval of the CUP with the following conditions:

- 1) Require a gravel base for parking stalls (class five, 3" thick),
- 2) Require vehicles to display current licenses,
- 3) Allow a maximum of one (1) unlicensed scrap vehicle to be stored on site at one time,
- 4) Require a written list of vehicles stored including the date the vehicle was brought to the site; the written list shall be accessible to the City when conducting CUP compliance audits,
- 5) Require scrap vehicles not used on site within one (1) year of being brought to the site to be removed from the site,
- 6) Restrict the types of vehicles stored on site to passenger vehicles, and,
- 7) Consider decreasing the outdoor vehicle storage space to eight (8) from ten (10).

Schneider gave a brief overview of the vehicles/equipment he has on site at any given time. Some concern was expressed about the number of "unlicensed" or "restorable" vehicles permitted on site. It was agreed to permit 4 "unlicensed" restorable vehicles on site at one time.

Chairman Nagel adjourned the public hearing and reconvened the regular meeting.

Grabitske introduced the following resolution and moved for its adoption:

PZ RESOLUTION NO. 7-2008

RESOLUTION RECOMMENDING APPROVAL OF A CONDITIONAL USE PERMIT FOR AN AUTOMOTIVE BODY SHOP WITH ANCILLARY OUTDOOR FACILITIES AT 118 WEST MAIN STREET, PARCEL #310165000

WHEREAS, Mr. Wade Schneider has submitted a request for a Conditional Use Permit to operate an automotive body shop with ancillary outdoor storage facilities at 118 West Main Street, legally described as Lot 1, Block 5, Frenzel Addition, City of Arlington; and,

WHEREAS, The subject parcel is zoned I-1 Light Industrial and predates the existing zoning ordinance; and,

WHEREAS, An auto body repair shop is not an allowed use within the I-1 Light Industrial District; the Applicant's business is therefore a legal non-conforming use of land; and,

WHEREAS, Outdoor storage at the subject property including unused parts, unlicensed 'scrap' vehicles, weeds, and clutter have become the subject of nuisance complaints; and,

WHEREAS, The Applicant and City have agreed to address nuisance conditions through a Conditional Use Permit (CUP) issued under Section 14, Subd. 3(G) relating to intensity of non-conforming uses; and,

WHEREAS, notice of a public hearing to accept input on the CUP request was published in the official newspaper on June 26, 2008 and sent to property owners within 350 feet of the property; and,

WHEREAS, the Planning and Zoning Committee conducted a public hearing on the CUP request on July 10, 2008 and accepted input on the CUP request; and,

WHEREAS, the Planning Committee has reviewed the CUP request and has made the following findings:

- A. The establishment, maintenance, or conducting of the use for which the permit is sought will not under the circumstances of the particular case be detrimental to the health, safety, morals, comfort, convenience or welfare of the persons residing or working in the neighborhood of such use.
- B. The establishment, maintenance, or conducting of the use for which the permit is sought will not under the circumstances of the particular case be detrimental to the public welfare, or injurious to property or improvements in the neighborhood.
- C. The City may designate conditions and require guarantees in the granting of use.

NOW, THEREFORE, BE IT RESOLVED BY THE ARLINGTON PLANNING AND ZONING COMMITTEE THAT: The Planning Committee does hereby recommend the City Council of the City of Arlington approve the CUP to operate an automotive body shop with ancillary auto detailing and fueling facilities at 118 West Main Street subject to the following:

1. Uses of the subject property shall be limited to an automotive body repair shop with ancillary outdoor storage facilities as presented in the attached application, except that the number of outdoor vehicle storage spaces is limited to a maximum of eight (8), not ten (10) as proposed.
2. All outdoor storage, including but not limited to storage bays and parking spaces shall be placed on a surface comprised of a gravel base (Class five) with a minimum thickness of three (3) inches.
3. All vehicles stored on site shall display current licenses, except that a maximum of four (4) unlicensed scrap or restoration vehicles may be stored on site at one time, provided a written list of vehicles stored (including the date the vehicle was brought to the site) shall be kept on file and accessible to the City when conducting CUP compliance audits. Any scrap vehicles not used on site within one (1) year of being brought to the site shall be removed from the site.
4. Only passenger vehicles are allowed to be stored on site.
5. This conditional use permit is in effect for the property at 118 West Main Street and assigned to the current and/or any future owner of the property. The conditional use permit may be revoked by the City following written notice to the property owner if the conditions of the permit as listed herein are not met and/or maintained. The conditional use permit will expire if/when the use of the property is changed.
6. The conditional use permit shall be recorded at the Sibley County Recorder's Office.

The motion for the adoption of the foregoing resolution was duly seconded by Reetz and upon poll being taken thereon the following voted in favor thereof: Grabitske, Kreft, Nagel, Pinske, Councilmember Reetz; and the following voted against the same: None; and the following abstained from voting: None; and the following were absent: Haggenmiller, Hislop, Kramer, Mielke.

Adopted by the Planning & Zoning Committee of the City of Arlington this 10th day of July, 2008.

Signed: /s/ Lowell Nagel
Chairperson

Attest: /s/ Cynthia Smith-Strack
Planning & Zoning Administrator

Whereupon the resolution was declared duly passed and executed.

Chairman Nagel recessed the regular meeting to hold a public hearing.

Variance: 401 West Adams Street, Darlain Rose

Chairman Nagel called to order the public hearing regarding the request for a Variance from Darlain Rose, 401 West Adams Street. Smith-Strack stated that the property owner has a mobility impairment and is unable to leave her home unless a handicap access ramp is installed, which would encroach into the side-yard setbacks. It was noted that the County Public Health Office had requested the ramp on behalf of the property owner. She reviewed the statutory (3) 'undue hardship' standards associated with variances and stated that the property only met 1 of the 3 and must meet all of them. She commented that normally she would recommend denial of the variance, but a "reasonable accommodation" must be considered under the Fair Housing Act as it is unlawful for cities to make zoning or land use decisions or implement land use policies that exclude or otherwise discriminate against protected persons, including individuals with disabilities. It was noted that the variance request for constructing a handicap ramp met the criteria for 'reasonable accommodation'.

Chairman Nagel adjourned the public hearing and reconvened the regular meeting.

Reetz introduced the following resolution and moved for its adoption:

PZ RESOLUTION NO. 8-2008

RESOLUTION RECOMMENDING APPROVAL OF A VARIANCE FROM CORNER LOT SETBACK REQUIREMENT FOR 401 WEST ADAMS STREET, PARCEL #310109000

WHEREAS, Darlain Rose has submitted a request for variance from the required side yard setback under Section 5, Subd. 4(5)(C) of the Arlington Zoning Ordinance; and,

WHEREAS, the purpose of the variance is to provide for construction of a handicap access ramp for a mobility impaired person on the property legally described as Lot 12 of Block 17, Original Plat, City of Arlington, Sibley County MN; and,

WHEREAS, notice of a public hearing to accept input on the variance request was published in the official newspaper on June 26, 2008 and sent to property owners within 350 feet of the property; and,

WHEREAS, the Planning and Zoning Committee acting as the Board of Zoning Adjustment conducted a public hearing on the variance request on July 10, 2008 and accepted input on the variance request; and

WHEREAS the Planning Committee has reviewed the variance request and has made the following findings:

- The request fails to pass two of three statutory potential findings for approval as an 'undue hardship' as discussed in the MDG memo to the Planning Commission dated July 3, 2008.
- Under normal circumstances the variance would be denied due to non-qualification under the 'undue hardship' standard.
- The federal Fair Housing Act (FHA) makes it unlawful for local governments to refuse to make 'reasonable accommodations' in land use and zoning policies and procedures where such an accommodation may be necessary to afford persons an equal opportunity to use and enjoy housing.

- ‘Reasonable Accommodation’ is defined in a joint statement of the U.S. Department of Justice and the U.S. Department of Housing and Urban Development as a request which does not impose an undue financial or administrative burden on a local government and/or which does not create a fundamental alteration in a local government’s land use and zoning scheme. The proposed accommodation is reasonable under this definition.
- The location of the handicap access ramp as proposed is the only means of access afforded to mobility impaired persons.

NOW, THEREFORE, BE IT RESOLVED BY THE ARLINGTON PLANNING AND ZONING COMMITTEE THAT: The Planning Commission acting as the Board of Zoning Adjustment does hereby recommend the City Council of the City of Arlington approve a request for a variance to the corner lot street side setback requirement for the property at 401 West Adams Street (Parcel #310109000), providing the handicap access ramp is removed from the property when an occupant no longer has mobility impairment or when an occupant with mobility impairment no longer resides on the premises. The front deck is in compliance with Ordinance 169 and shall be allowed to remain.

The motion for the adoption of the foregoing resolution was duly seconded by Kreft and upon poll being taken thereon the following voted in favor thereof: Grabitske, Kreft, Nagel, Pinske, Councilmember Reetz; and the following voted against the same: None; and the following abstained from voting: None; and the following were absent: Haggemiller, Hislop, Kramer, Mielke.

Adopted by the Planning & Zoning Committee of the City of Arlington this 10th day of July, 2008.

Signed: /s/ Lowell Nagel _____ Attest: /s/ Cynthia Smith-Strack _____
 Chairperson Planning & Zoning Administrator

Whereupon the resolution was declared duly passed and executed.

Discussion resumed on redrafting Section 11 of the Zoning Ordinance related to Planned Unit Developments (PUDs). The remaining sections (11-25) of the proposed ordinance were reviewed, which included the platting (preliminary through final) process and financial obligations (surety bonds). Smith-Strack commented that a public hearing will be scheduled for the August meeting to review the proposed PUD ordinance in its entirety.

Discussion was held on historic preservation. Smith-Strack shared the information that she had obtained from the MN Design Team visit in the early 90’s. Considerable discussion was held. Grabitske offered some good information with regards to restoration/preservation of certain structures in Arlington. He also had several different contacts the City can utilize, such as for writing a Historic Preservation Ordinance, etc. It was suggested and agreed to hold a joint meeting (Council, Planning Committee & Historical Society) in the fall to initiate putting a historic preservation ordinance together.

The June Building Permit Report from Building Official Haslip was reviewed.

It was noted that the next meeting was August 14th.

Motion by Grabitske, seconded by Reetz, and passed by unanimous vote to adjourn the meeting at 8:15 p.m.

 PZ Adm. Cynthia Smith-Strack

 Chairman Lowell Nagel