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ZONING BOARD OF APPEALS

Regular Meeting
February 25, 2025

The meeting was called to order by Vice-Chairman Ross De Vries at 5:30 p.m.

Present: Vice-Chairman Ross De Vries, Member Elliott Church, and Alternate Steve Haberkorn. Also present were Community Development Director Corey Broersma, Assistant Planner/Zoning Administrator Kate White, and Recording Secretary Laurie Slater.

Absent: Chairman Russ Boersma, Members Bob DeVries, and Jack Vander Meulen.

There were no public comments.

** It was moved by Church and supported by Haberkorn to approve the minutes from the January 28, 2025 meeting as presented. Motion carried unanimously with a roll call vote.

Vice-Chairman De Vries explained the Public Hearing process to the audience.

Hearing declared open to consider a petition for a Nonuse Variances submitted by Robb Lamer of Exxel Engineering on behalf of Ajay Sehgal of Felch LLC for adjoining properties located at 12059 Felch Street (known specifically as Parcel Number 70-16-16-200-033) and 2851 120th Ave (known specifically as Parcel Number 70-16-16-200-014). Petitioner is requesting variances to not install the required Type D Landscape Buffer along 256 feet of a common lot line, resulting in the elimination of a 10 foot wide buffer and 0 canopy or evergreen trees along either side of the common lot line in order to establish a shared parking lot. The subject properties are zoned C-1 Neighborhood Community.

Present for this request was Robb Lamer of Exxel Engineering on behalf of Ajay Sehgal of Felch LLC.

Mr. Lamer explained to the Board that he designed the plans for both the properties, Holland Liquor Store and the retail property to the south, owned by the same entity. Because they cannot have parking on the north side of the proposed liquor store because it is so close to the residential use, they would like to have shared parking with the existing retail property, which would save impervious area and keep things cleaner. Mr. Lamer continued that it is the owner's understanding that there is a rule that they need to have a 10-foot buffer between the properties regardless of whether you are sharing parking, but this is a unique situation where it makes sense not to put in the buffer and create less impervious area. There would be a shared 27-foot easement for ingress and egress and utilities. The existing access aisle on the Felch Street parcel would serve the double-sided parking. There would be no need for another aisle to get more parking spaces.

Mr. Lamer continued by stating there is an existing residential use north of the proposed liquor store site (2851 120th Ave), which requires a 30-foot-wide landscape buffer as well as a 50-foot building setback along the northern lot line. Mr. Lamer believes that the proposed layout of the shared parking is the better solution for all because less impervious area means less storm water and also keeps the parking as far away from the neighbor to the north as possible.

Chairman De Vries asked Mr. Lamer what the plan was if the request was denied. Mr. Lamer replied that it would be the owners' prerogative of what to do. The building would not be able to be that shape. He did

not know how one would fit stuff on that site. They would probably have to wait it out until the residential use on the lot to the north was gone.

Mr. Church asked Mr. Lamer about the possibility of combining the two properties. It appeared to Mr. Church that the applicant wants to treat the properties as though they were one and treat the properties like there are no requirements for setbacks and parking and green space. Mr. Church noted they want to ignore those requirements and that one easy way to ignore them is if it is all one parcel. They would not need a variance if the properties were combined. It makes it harder to sell, but it would solve the problem. Nothing about zoning would inhibit this plan from being executed if the parcels were joined.

Mr. Lamer responded to Mr. Church by stating that if they combine the properties, they would need to create a survey, get a lawyer to prepare a condo agreement and legal documents. It does not seem necessary when a two-page easement agreement could be signed and filed with the County. Also, they would not be able to sell one of the properties if they desired to do so.

Mr. Lamer further explained that they are proposing a large area of green space on a commercial piece of property. Even if the residential use were to go away, the green space should be left as proposed. Over 50% of the parcel is green space.

The Board asked Community Development Director, Corey Broersma, if he had anything to add. Mr. Broersma replied that the southern property cannot functionally meet the 10-foot-wide buffer requirement, because it was approved under a prior ordinance. Mr. Broersma noted the southern property may maintain a single loaded drive aisle, a single row of parking, and approximately 3 feet of green. Then the northern property would have 10 feet of green, a drive aisle, and a single row of parking. Duplicating drive aisles and not efficient.

Mr. Broersma further commented that Mr. Lamer and the applicant have worked with Staff on the landscaping. They understood that they are asking for relief here so they made improvements to the landscaping on the front of the property to the south that was not required.

There was no one present in the audience to speak to this request.

** It was moved by Church and supported by De Vries to close the hearing. Motion carried unanimously with a voice vote.

The Board went over the standards to review when considering a nonuse variance request.

- 1. That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:***
 - a. Exceptional narrowness of the width or depth of a lot of record, or irregular shape.***
 - b. Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.***
 - c. Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.***
 - d. Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.***

2851 120th Avenue

The Board found the presence of a non-conforming residential dwelling to the north of 2851 120th Avenue does impose a requirement for a 30-foot-wide landscape buffer along the north side of 2851 120th Avenue that is unable to be utilized for building or parking.

12059 Felch Street

The location of the building at 12059 Felch Street and its parking were developed prior to the buffer requirements. At some point in the future, parking reconstruction would require a 10-foot-wide buffer to be installed, however, achieving a 10-foot-wide buffer may not be feasible with current parking demand.

The extraordinary location of the existing building on 12059 Felch Street creates difficulty in accommodating the buffer on-site while accommodating parking required on-site.

2. ***That the unusual circumstances do not apply to most other lots of record in the same manner to the same extent to other lots of record in the same zoning district***

The Board found that having a residential use next to a commercial zoned property is an unusual circumstance. Additionally, the existing location of the building 12059 Felch St and its nonconforming parking situation along the north lot line are unusual.

3. ***That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.***

The Board noted the owner could combine the properties, in which case there would be no need for a variance. They understand that would cost more to create a condominium. Mr. De Vries believed that money was not the primary drive behind the decision not to combine; it is the preservation of green space that is important to the applicant. The efficient shared parking between the two businesses leaves more green space on the 120th Avenue property. Adding green space is the purpose and intent of the Zoning Ordinance. It makes the property aesthetically appealing. This request is similar to a previous variance request submitted for two properties on North Wellness Drive.

4. ***That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.***

The Board found that granting this variance will not be of substantial detriment to adjacent and nearby land uses or properties. There would be no effect on the property to the north as the applicant is abiding by the ordinance with the setbacks and buffers on the north property line of the 120th Avenue property. There were no letters from nearby properties submitted and no one was present to speak to this request.

5. ***That the applicant shall not have created the problem for which the variance is being sought.***

The Board found that the situation was created by the neighboring property to the north being used as residential when it is zoned commercial. The owner and engineer have accommodated to meet those setback and buffer requirements from the residential use but have difficulty providing the parking on-site.

6. ***That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.***

The Board found that granting this request would not be contrary to the public interest in preserving green space. It would have no negative impact on public safety. It would give substantial justice to both the applicant and other property owners in the district.

** It was moved by Church and supported by Haberkorn to approve a variance at 12059 Felch Street to not install the required Type D Landscape Buffer along 256 feet of northern lot line, resulting in the elimination of a 10-foot-wide buffer and 0 canopy or evergreen trees conditional on the provision of a fully executed written agreement for the shared parking use and ingress and egress and utilities that is satisfactory to zoning staff. Motion carried unanimously with a roll call vote.

** It was moved by Church and supported by De Vries to approve a variance at 2851 120th Avenue to not install the required Type D Landscape Buffer along 256 feet of southern lot line, resulting in the elimination of a 10-foot-wide buffer and 0 canopy or evergreen trees conditional on provision of a fully executed written agreement for the shared parking use and ingress and egress and utilities that is satisfactory to zoning staff. Motion carried unanimously with a roll call vote.

The meeting adjourned at 6:08 pm.

Respectfully submitted,

Laurie Slater
Recording Secretary