

ZONING BOARD OF APPEALS
Regular Meeting
August 28, 2018

Present: Chairman Steve Haberkorn, Vice-Chairman Russ Boersma, Members Elliott Church, Jack Vander Meulen and Ross DeVries. Also present was Community Development Director John D. Said, Assistant Community Development Director Corey Broersma, and Recording Secretary Laurie Slater.

Absent: Bob Swartz

The meeting was called to order by Chairman Haberkorn at 5:30 p.m., and he explained the Public Hearing process to the audience.

Hearing declared open to consider a petition to extend a non-conforming use submitted by Double JDM, Inc. for property located at 850 Butternut Drive, known more specifically as parcel number 70-16-18-125-026. Petitioner is requesting permission to expand the existing restaurant use (Mario's Pizza) with additional property, added parking, vehicle access, and a pickup window. The property is zoned R-2 Moderate Density Residential.

This request was presented by Todd Stuive of Exxell Engineering. Also present was Denny Owen of Owen Excavating and Jeff & Mary VandenBosch – Owners of Mario's,

Mr. Stuive explained that Mario's parcel is an awkward shaped parcel with the back lot line running parallel with the road. They purchased the parcel to the south, which they would like to split as there is a house on it. They would like to create a separate parcel with the house on it meeting all setback requirements and sell off that parcel. The other newly created parcel would be developed into additional parking. They are proposing a pick-up window where orders called in could be picked up by the customer instead of them needing to park and come in.

The non-conformity of the parcel is that it is a commercial use on a residential zoned parcel.

There are currently two driveways to get into the existing property with parking on the north side of the property. They are proposing to have the southernmost driveway reconstructed for an exit only. The northern most drive will be both enter and exit.

There are two residential properties to the west with access across the Mario's site. Mario's intend to swap property with the immediate neighbor to the west in order to square off the lot line, resulting in the parking lot being on Mario's property instead of the neighbors.

There would be no additional seating added to the restaurant. They are proposing the addition of a small cooler as well as the pick up only window. The proposed storm water basin has been approved by the Drain Commission. The new curb cuts have been submitted to the Road Commission but they have not responded as of yet.

The Board had questions about the screening/buffering of the property, including wanting to know whose responsibility it would be to maintain the fence when the house is sold off.

There is currently some wooden fencing and they plan on leaving the trees as a buffer to the west. Mario's is planning on maintaining the fence.

Since the property is zoned residential, the side yard building setback would be 7 feet and not require screening for a residential use, however, the use is commercial and 15-foot side yard building setbacks and screening can be considered during site plan review.

Mr. Vander Meulen commented that residential and commercial can get along when done correctly and this is a great example of that.

Present in the audience to speak to this request was Bruce Pommerening of 868 Butternut. He had concerns about privacy at his residence and headlights shining into his residence.

Also present was John Gerry of 535 Woodland he too had concerns about headlights shining into his residence and the thinning vegetation indicated to remain.

** It was moved by Mr. Vander Meulen and supported by Mr. DeVries to close the hearing. Motion carried.

The Board went over the three standards to review when considering an extension of a non-conforming use.

1. Whether the extension, enlargement, alteration, remodeling or modernization will substantially extend the probable duration of the nonconforming structure, building or use.

The addition of a pick-up window, a small cooler and additional parking will not substantially extend the probable duration of the non-conforming use. It will make the operation of the business better.

2. Whether the extension, enlargement, alteration, remodeling or modernization of the nonconforming structure, building or use will interfere with the use of adjoining lands or other properties in the surrounding neighborhood for the uses for which they have been zoned pursuant to the provisions of this ordinance.

It would improve the conditions with the addition of screening to the north and south. Also, the lot lines would be cleaned up making them square.

3. The effect of the nonconforming structure, building or use and such extension, enlargement, alteration, remodeling or modernization thereof on adjoining lands in the surrounding neighborhood.

The screening is important. The use is a low-key use. The establishment is polite and not rowdy. There needs to be adequate screening for future uses. It may not always be a Mario's, but needs to be compatible with the neighborhood. The pick-up window is okay; it may not include a menu board or be a drive up/order window like a coffee shop or McDonald's.

** It was moved by Mr. Vander Meulen and supported by Mr. Church to approve the request as submitted with the applicant working with staff on the landscape plan. The pick-up window is allowed, but is never to be a drive up/order window with a menu board and speakers. Motion carried.

The minutes of July 24, 2018 were approved as printed.

The meeting adjourned at 6:05 p.m.

Respectfully submitted,

Laurie Slater
Recording Secretary