

MINUTES
REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS
CITY OF OWOSSO
JULY 16, 2019 AT 9:30 A.M.
CITY COUNCIL CHAMBERS

CALL TO ORDER: The meeting was called to order by Chairman Randy Horton at 9:30 a.m.

ROLL CALL: Was taken by Tanya Buckelew.

MEMBERS PRESENT: Chairman Randy Horton, Board Members Michael Bruff, Tom Taylor and Kent Telesz

MEMBERS ABSENT: Vice-Chairman Christopher Eveleth, Board Member Matt Grubb and Alternate Robert Teich

OTHERS PRESENT: Justin Sprague, CIB Planning, Jordan London, Architect with Edmund London & Associates, Inc., Charlie Thompson, Memorial Healthcare Director of Facilities

AGENDA:

IT WAS MOVED BY BOARD MEMBER TAYLOR AND SUPPORTED BY BOARD MEMBER BRUFF TO APPROVE THE AGENDA FOR THE JULY 16, 2019 REGULAR MEETING AS PRESENTED.

YEAS: ALL. MOTION CARRIED.

MINUTES:

THIS ITEM WAS TABLED UNTIL THE NEXT MEETING TO ALLOW FOR REVIEW

CONFLICT OF INTEREST:

Board Member Bruff received the zoning variance notice due to him living within 300' of the proposed building. Mr. Bruff brought this up as to assure there was not a conflict of interest in regards to him voting on the variances. He is not in conflict as there is neither a financial conflict nor a personal benefit the Mr. Bruff would receive. Chairman Horton, Board Members Taylor and Telesz have agreed there is not a conflict of interest.

OLD BUSINESS: - None

NEW BUSINESS/PUBLIC HEARINGS:

APPLICANT: MEMORIAL HEALTH CARE

LOCATION OF APPEAL: 826 W KING STREET, Owosso, MI 48867

PARCEL NUMBERS: 050-310-000-006-00, 050-310-000-007-00, 050-310-000-008-00,
050-310-000-009-00, 050-310-003-001-00, 050-310-003-002-00,
050-310-003-003-00, 050-310-001-015-00, 050-310-001-016-00,
050-310-001-017-00, 050-310-001-001-00, 050-310-001-002-00,
050-310-001-003-00, 050-310-001-004-00

PROPERTY ZONING: R-1, ONE-FAMILY RESIDENTIAL and OS-1, OFFICE SERVICE

THE APPLICANT IS SEEKING VARIANCES TO ALLOW THE ADDITION OF A NEURO/ORTHOWELLNESS CENTER:

VARIANCE REQUEST #1:

THE BUILDING HEIGHT OF 43'4" EXCEEDS THE MAXIMUM HEIGHT OF 35 FEET, PERMITTED BY SECTION 38-351, SCHEDULE LIMITING HEIGHT, BULK, DENSITY, AND AREA BY ZONING DISTRICT

VARIANCE REQUEST #2:

A VARIANCE TO PERMIT A PARKING LOT SETBACK OF 25 FEET WHERE SECTION 38(43)(9)(D) OFF-STREET PARKING REQUIRES OFF-STREET PARKING LOTS TO BE SET BACK 50 FEET FROM LOCAL STREETS.

THE CITY OF OWOSSO MUNICIPAL CODE REQUIRES APPROVAL OF DIMENSIONAL VARIANCES FROM THE ZONING BOARD OF APPEALS.

Jordan London presented the plans for the proposed building. He presented each of the 3 floors, noting the 3rd floor use on the south side of the building would be a running track and the 3rd floor to the north would be for future medical offices.

Justin Sprague explained why the variances would be needed. Originally, the proposal was going to proceed with a Planned Unit Development (PUD), but with the PUD being a long process, it was decided to go for the 2 variances as the process would move along at a faster pace. The Planning Commission made the decision to add landscaping as opposed to a mason wall.

Chairman Horton opened the Public Hearing and the following spoke:

- 1. Marv Sanders, 916 Ada Street, asked about the parking and the survey stakes that are currently present.**

Response: The property was recently surveyed and the parking lot (if variance is approved) would not begin until 25' setback from the property stakes/property line. The landscape buffer would encompass the area between the parking lot and the property line.

- 2. Tom Koenig, 1000 Ada Street, asked about the landscaping.**

Response: Additional discussion regarding the landscape buffer continued. The buffer is meant for the new parking lot as there are already trees planted along the existing parking area.

- 3. Karen Harris, 900 Campbell Drive, asked about adding landscaping to the river and the possibility of the light pollution increasing on the neighboring homes. Also asked if there would be any vehicle entry off of Jennett Street and Ada Street.**

Response: There is not an intention to add in additional landscaping to the river. The light pollution would increase and the hospital will make every effort for it to be a minimal impact on the neighbors. There will not be entry to the hospital from Jennett nor Ada Street.

- 4. Sherry Elwell, 1018 Ada Street, asked why the 25' variance is needed for parking.**

Response: The variance for parking is part of the Mater Plan and future development for the hospital. In addition, this is part of the reconfiguration of the parking lot to allow for more spaces.

- 5. John Smith, 910 Ada Street, asked the parking lot and hill area across the street from his house and if the Consumers Energy gas lines would be affected again and disrupt his front yard area.**

Response: The hill area would not be affected by the new parking lot. The hospital has a direct contact with Consumers Energy and any concerns regarding the gas lines will be addressed accordingly.

6. **Barbara Perkovic, 713 Pine Street, lives behind the old Sunoco station that is now demolished and asked about what additional homes were going to be demolished on her block.**

Response: The 2 homes adjacent to the former Sunoco building are being demolished – 1 faces King Street and the other faces 52. At this time, nothing is planned for this area. Future development could possibly include parking.

FINDINGS OF FACT AND CONCLUSIONS

UPON MOTION OF BOARD MEMBER TELESZ, SECONDED BY BOARD MEMBER TAYLOR, the following findings, conclusions, decisions, and conditions were adopted by the Board as its decision on Variance Request #1. The applicant **does** meet the applicable nine (9) facts of findings:

1. Basic Conditions. In order to qualify for a variance, the applicant must show that a variance:

a. Will not be contrary to the public interest or to the intent and purpose of this chapter;

Review Comment. The variance will not be contrary to the public interest or to the intent of the ordinance. The request for additional height to allow a third story is consistent with existing buildings on the campus as the hospital itself has a building five (5) stories in height. The reduced parking lot setback still provides ample room for a landscape buffer to shield the parked cars, meeting the intent of the requirement. Standard met.

b. Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required;

Review Comment. The use is permitted by right. Standard met.

c. Is one that is unique and not shared with other property owners;

Review Comment. The Memorial Heath Care campus is an established facility with limited expansion opportunities. Surrounding properties are residential and professional offices, many of which are medical-related. The situation is unique to the healthcare campus. Standard met.

d. Will relate only to property that is under control of the applicant;

Review Comment. This request relates only to the property under the control of the applicant. Standard met.

e. Is applicable whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;

Review Comment. Compliance with the strict letter of the regulations would prevent the applicant from providing the required number of parking spaces to support the facility. Compliance with the strict letter of the height regulations would prevent the applicant from constructing a three story building and therefore reducing the needed square footage needed to provide the new centers. Standard met.

f. Was not created by action of the applicant (i.e. that it was not self-created);

Review Comment. The need for the variance was not created by the applicant but rather it is due to its established location. Standard met.

g. Will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets or increase the danger of fire or endanger the public safety;

Review Comment. The height increase and reduced parking lot setback will not be impair the adequate supply of light and air to adjacent properties or increase the congestion of public streets or increase the danger of fire or endanger the public safety. Standard met.

h. Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located;

Review Comment. The proposed height and parking lot setback reduction will not be detrimental to the adjacent property or the surrounding area. Standard met.

i. Is applicable whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the area, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

Review Comment. An increase in height and encroachment into the front yard setback will not be detrimental to the adjacent property or the surrounding area. Without the requested variances, the applicant is not able to construct the building will all its proposed centers.

2. Special conditions. When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one (1) of the following special conditions can be clearly demonstrated:

a. Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land; OR

b. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district; OR

c. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

Review Comment.

(b) In order for Memorial Health Care to provide additional care in Neuro, Orthopedic, and Wellness areas, the requested variances are necessary to construct the building. The campus has a limited amount of property to expand their facilities. Acquiring additional land for parking expansion and future construction is not feasible. Memorial Health Care is an established facility and at one point was permitted to construct a 5-story building. Should the height variance not be approved, the applicant may be forced to use more ground floor area to expand the footprint of the facility, thereby increasing the lot coverage on the lot and limiting future expansion and growth (new buildings providing additional services). The intended use of the property as a health care campus does not apply to other properties in the same zoning district--the campus-style development is unique to the City.

The Variance Request #1 for an 8' 4" high dimensional variance is approved to allow the height of the building to be constructed at 43'4" instead of the maximum height of 35'.

The variance was approved based on all aspects of the plans and descriptions submitted. The structure, use or activity shall be constructed or carried on in accordance with the plans and/or description provided by the Applicant. All aspects of construction shall be in compliance with the plan submitted, regardless of whether a variance was sought or necessary for certain dimensional or other aspects of the plan.

Any variance granted by the Zoning Board of Appeals shall not be valid after a period of six (6) months from the date granted unless the owner shall have taken substantial steps, as determined by the Board, in implementing the variance granted by the Board." Sec. 38 504(c) 2. i. ii., Chapter 38, of the City of Owosso Zoning Ordinance.

The above findings, conclusions and decision were adopted by a roll call vote as follows:

**AYES: BOARD MEMBERS BRUFF, TAYLOR, TELESZ AND CHAIRMAN HORTON
NAYS: NONE**

FINDINGS OF FACT AND CONCLUSIONS

UPON MOTION OF BOARD MEMBER TAYLOR, SECONDED BY BOARD MEMBER TELESZ, the following findings, conclusions, decisions, and conditions were adopted by the Board as its decision on Variance Request #2. The applicant does meet the applicable nine (9) facts of findings:

3. Basic Conditions. In order to qualify for a variance, the applicant must show that a variance:

a. Will not be contrary to the public interest or to the intent and purpose of this chapter;

Review Comment. The variance will not be contrary to the public interest or to the intent of the ordinance. The request for additional height to allow a third story is consistent with existing buildings on the campus as the hospital itself has a building five (5) stories in height. The reduced parking lot setback still provides ample room for a landscape buffer to shield the parked cars, meeting the intent of the requirement. Standard met.

b. Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required;

Review Comment. The use is permitted by right. Standard met.

c. Is one that is unique and not shared with other property owners;

Review Comment. The Memorial Heath Care campus is an established facility with limited expansion opportunities. Surrounding properties are residential and professional offices, many of which are medical-related. The situation is unique to the healthcare campus. Standard met.

d. Will relate only to property that is under control of the applicant;

Review Comment. This request relates only to the property under the control of the applicant. Standard met.

e. Is applicable whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;

Review Comment. Compliance with the strict letter of the regulations would prevent the applicant from providing the required number of parking spaces to support the facility. Compliance with the strict letter of the height regulations would prevent the applicant from constructing a three story building and therefore reducing the needed square footage needed to provide the new centers. Standard met.

f. Was not created by action of the applicant (i.e. that it was not self-created);

Review Comment. The need for the variance was not created by the applicant but rather it is due to its established location. Standard met.

g. Will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets or increase the danger of fire or endanger the public safety;

Review Comment. The height increase and reduced parking lot setback will not be impair the adequate supply of light and air to adjacent properties or increase the congestion of public streets or increase the danger of fire or endanger the public safety. Standard met.

h. Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located;

Review Comment. The proposed height and parking lot setback reduction will not be detrimental to the adjacent property or the surrounding area. Standard met.

i. Is applicable whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the area, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

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4. Special conditions. When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one (1) of the following special conditions can be clearly demonstrated:

a. Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land; OR

b. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district; OR

c. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

Review Comment.

(b) In order for Memorial Health Care to provide additional care in Neuro, Orthopedic, and Wellness areas, the requested variances are necessary to construct the building. The campus has a limited amount of property to expand their facilities. Acquiring additional land for parking expansion and future construction is not feasible. Memorial Health Care is an established facility and at one point

was permitted to construct a 5-story building. Should the height variance not be approved, the applicant may be forced to use more ground floor area to expand the footprint of the facility, thereby increasing the lot coverage on the lot and limiting future expansion and growth (new buildings providing additional services). The intended use of the property as a health care campus does not apply to other properties in the same zoning district--the campus-style development is unique to the City.

The Variance Request #2 for the parking lot to be setback 25' from the property line instead of the required 50' setback is approved.

The variance was approved based on all aspects of the plans and descriptions submitted. The structure, use or activity shall be constructed or carried on in accordance with the plans and/or description provided by the Applicant. All aspects of construction shall be in compliance with the plan submitted, regardless of whether a variance was sought or necessary for certain dimensional or other aspects of the plan.

Any variance granted by the Zoning Board of Appeals shall not be valid after a period of six (6) months from the date granted unless the owner shall have taken substantial steps, as determined by the Board, in implementing the variance granted by the Board." Sec. 38 504(c) 2. i. ii., Chapter 38, of the City of Owosso Zoning Ordinance.

The above findings, conclusions and decision were adopted by a 3 – 1 roll call vote as follows:

**AYES: BOARD MEMBERS BRUFF, TAYLOR AND CHAIRMAN HORTON
NAYS: BOARD MEMBER TELESZ**

OTHER BOARD BUSINESS: None

PUBLIC COMMENTS AND COMMUNICATIONS: None

ADJOURNMENT:

MOTION BY BOARD MEMBER TELESZ AND SUPPORTED BY BOARD MEMBER TAYLOR TO ADJOURN AT 10:35 A.M. UNTIL THE NEXT REGULARLY SCHEDULED MEETING ON TUESDAY, AUGUST 20, 2019, IF ANY REQUESTS ARE RECEIVED.

YEAS: ALL. MOTION CARRIED.

Matthew Grubb, Secretary