

**CITY OF HUDSON ZONING & BUILDING BOARD OF APPEALS
PUBLIC HEARING & MEETING
DECEMBER 6, 2016**

DRAFT 12-8-16

MEMBERS PRESENT: Conard, Berning, Neset, Zimmerman and Huhn

MEMBERS ABSENT: None

OTHERS PRESENT: Ryan Anderson (ISG-Bloomington, MN), David Gray and Elizabeth Moline

Chairman Neset called the meeting to order at 7:00 p.m. She noted there were minutes to be acted on and one hearing.

MINUTES. Motion by Conard, second by Neset to approve the minutes of the August 19, 2014 meeting. **MOTION CARRIED, 5-0.**

Motion by Conard, second by Neset to approve the minutes of the August 21, 2014 meeting. **MOTION CARRIED, 5-0.**

Chairman Neset opened the public hearing and stated it was for a variance application from Aldi, Inc. requesting variances to the required side yard setback in Municipal Code Chapter § 255-25, Dimensional Requirements for an addition to an existing building and to the required parking spaces (as a result of the proposed addition) in Municipal Code Chapter § 255-48H(3)(q). The property is located in a B-2, General Business District at 2401 Hanley Road and legally described as Lot 1 of Certified Survey Map, Document No. 832977, Volume 21, Page 5264, City of Hudson, St. Croix County, WI.

APPEAL NO. 234. Chairman Neset asked for the staff report. Gray stated the site is located at 2401 Hanley Road for the Aldi, Inc. grocery store. It is a B-2, General Business District. The Aldi facility and the retail building were built in 2006 concurrently with lot 1 being Aldi and lot 2 being the retail, mixed use building. Each lot has the required parking for each building as submitted with the review of the projects. The initial review of the application for variances was for 1) side yard setback for a building addition and 2) the need for a greater amount of off-street parking.

The Aldi store is 20 feet from the west property line with the west wall on the setback line. The request is to allow for a 17'4" addition to the west for the length of the existing building that would be 2'8" from the property line. He noted that if the variance is granted a temporary construction easement from Menards would be required in order to get a building permit. Menards did send an e-mail in support of the request and are willing to negotiate a construction easement if it has no adverse affect on Menards, and it doesn't in this instance. Conard asked if that should be a condition of approval, and Gray responded it could but would still be required before the issuance of a building permit.

Gray stated there was a letter from Scott St. Martin, Fire Chief/Marshal stating he has reviewed the request and doesn't have any objection as long as the addition is fire protected, and Gray noted that the rest of the building is fire protected at this time.

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Gray stated that his first review was based on 16,586 sq. ft. plus 3,500 sq. ft. being 20,086 sq. ft. or using 21,000 sq. ft. with approximately 18,000 usable sq. ft. that would require 90 parking stalls. Since then, he reviewed the on-site parking spaces and counted 84 noting that the original plan had shown 10' wide spaces but were done 9' wide that provided additional parking. He reviewed with Denny Darnold to verify he was applying the code correctly, and he read Municipal Code § 255-48 (q) that states 'Retail stores except as otherwise specified herein; one for each 200 square feet of gross leasable or usable floor space.' So he took the total entire building (existing and proposed addition) and determined the usable retail space by removing the restrooms, storage area and mechanical room with a total of 16,200 sq. ft. actual retail that would require 82-83 parking spaces. Therefore, there is no shortage of parking as they are providing 84 spaces.

Neset requested clarification of the location in relationship to the scrubby area, tree area, and maintained area as shown on an aerial photo. Gray noted there is currently a 20 foot buffer from the west wall to the property line that Aldi is maintaining with the addition being 17'4" east to west. The scrubby area and tree area are on Menards property.

Zimmerman asked if Aldi is the only business under the parking requirement (for lot 1). Gray responded that there is a parking agreement that notes Aldi uses lot 1 and can overflow into lot 2 and retail is only lot 2, but it is a private agreement between the two property owners and not for the city to enforce. Zimmerman asked if the retail building is full, and Gray responded that there are two bays open. Zimmerman stated that there is only one access for ingress and egress that is sometimes an issue. Conard commented that there are two restaurants and are very busy at times. Gray noted that there are three parking spaces for the spinal care business in the lot 1 parking area that violates the private parking agreement, and Conard commented that these shouldn't be counted for Aldi parking. Neset agreed and asked if there is enough parking if all bays are full. Gray stated that the projects were reviewed as one development as received, and the parking area for lot 2 is in conformance for that type of building. Zimmerman commented that there were no tenants at the time of the initial review so the parking requirements were based on square footage only on the proposed development. Gray noted that review is based on current planning requirements, and changes will always occur.

Neset asked if there were any comments from the neighbors, and Gray responded only the Menards e-mail. Huhn asked if the construction easement was an issue, and Gray responded that it would be a temporary construction easement only if the project proceeds.

Ryan Anderson from I&S Engineers & Architects, Inc. working for Aldi's introduced himself. He has spent the last 2 to 2½ months gathering information with David Gray. He stated that Aldi's is updating and expanding to their newest standards with cosmetic and complete interior remodeling also. This store was recommended to be brought up to the new standards with the proposed addition.

Anderson continued stating that during his review, it was determined that they can't expand into the parking area (east). They couldn't go south due to the proximity of Hanley Road and the utilities. There isn't room on the north, and there is a stormwater pond. The west has

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adjacent open area that is owned by Menards. This is the busiest store in the region so would like to expand. If the Board gave a positive on the setback, Aldi would not be opposed to the condition of the construction easement.

Neset questioned how much longer the expansion would suffice. Anderson responded that this is just the first expansion to meet new standards and doesn't know any projection. As an indication of how long, Conard asked how much would they invest, and Anderson replied they have a lot invested. Zimmerman asked if they don't get the variance will they go somewhere else, and Anderson replied that he didn't know. Berning asked if the newer portion was for more products, and Anderson replied that it will be a combination of more storage and to add another aisle.

Motion by Conard, second by Zimmerman to close the hearing. **MOTION CARRIED, 5-0 (7:29 p.m.)**

Neset stated they needed to address the three issues and include in any motion.

Conard stated he has not shopped at Aldi's but spent about an hour Sunday afternoon in the parking lot, and he noted constant turnover with 6-8 spaces available for parking on an ongoing basis. He questioned about half a dozen customers who were very enthusiastic about and committed to Aldi's because of lower prices and more for their money. He asked if there was a bigger store and more congestion would they put up with it, and they said they would if there was a wider range to select from. There were no negatives and were in favor of it.

Other comments during the Board discussion included the following:

- Berning had questioned whether she could be unbiased as she is a loyal customer.
- Customers will put up with parking and congestion or change shopping time.
- Due to the operation process, customers are in and out quite quickly.
- No issue from fire department.
- Have to obtain temporary construction easement prior to getting building permit.
- Zimmerman stated he was struggling with it being a hardship. It is simply a matter of remodeling as they are making a very good profit. He is not against it but not harmful if they don't get it. Conard commented that it might be harmful to the customers if they don't proceed.
- Neset stated they have to meet requirements.
- Gray noted checklist form based on Municipal Code and state case law history.
- Cannot do all of their proposed expansions because of space limitations or other issues.
- Smallest store in area, and Anderson confirmed this store is version 1 and smallest across the country with version 7 being used now.
- New Richmond store is 18,830 sq. ft. with version 7 being just over 20,000 sq. ft., and Hudson store would be just over 19,000 sq. ft. if expanded.
- Anderson stated that the New Richmond store opening would probably have no affect.
- West is the only direction that expansion can occur.

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In review of the checklist, the following was noted:

- All agreed the conditions are unique to the property.
- Request is not based exclusively upon desire to increase value or income potential but also desire to upgrade. Exclusively is a key word.
- Will not be detrimental; noted more congestion but will be there anyway.
- Question as to intent of setback, and Gray noted one issue is that it defines the character of the area such as B-2, General Business District has a 20 foot side yard setback; and the B-3, Central Business District is zero side yard setback. It allows more green space and open space. Fire separation is limited to amount of openings.
- Not adequately serving the customer base as they can't keep shelves stocked due to lack of storage space.
- Current business has outgrown their facility and needs to meet their patrons' needs and expectations.
- Zimmerman stated it is very unique to industry; provide commodities from Aldi's manufacturers; people won't be turned away. Aldi's wants to increase business with more sales and products. Don't see it as a hardship, and it is difficult.
- Conard stated that hardship is hard to deal with from a city standpoint; from Aldi, it is a jobs standpoint and are being very positive and doesn't cost the taxpayers a penny. He understands what Zimmerman is saying.
- Have reasonable use of the property.

It was noted that no Aldi employee was present to address issues and answer questions. Anderson stated he would like to comment on the hardship issue. He stated the Aldi's store does do very well now. The market is changing in the next year and next five years with other competitors. They do not know when the national trend will reach here but want to maintain the existing customer base and keep up with the changing market.

Motion by Conard, second by Zimmerman to grant the variance request (side yard setback) from 20 feet to 2'8" or a variance of 17'4" for an addition of 17'4" based on the following:

Unnecessary Hardship. This is an existing retail facility located within the B-2 zoning district which is not adequately sized to serve their customer base. The intended use will remain the same and the proposed design fits the intent of the ordinance. Enforcement of the code will prevent Aldi from adequately serving their customer base and thus not allow for reasonable use of the property.

Expanding and improving the existing store is the minimum relief to allow Aldi to adequately serve. The Aldi store will not be able to meet future demands of their customers and compete with other companies entering into the market.

Unique Property Limitation. Expansion in the current location is restricted on three sides [existing limitations to the north (stormwater pond), south (encroach utilities and Hanley Road), and east (further limit parking)] with the only option being to the west. Based on these limitations, expanding west over the setback (abuts vacant lot) is the most feasible option and minimum relief to allow reasonable use of the property. The proposed building

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enlargement plan maximizes the utilization of the available space. The plan will permit continued productive utilization of the current building structure by enlargement and avoid the possibility of vacating the current location to relocate.

Protection of the Public Interest. No negative impacts to the health, safety, or welfare of neighboring properties or general public will result from the proposed improvements. The expansion plan does not appear to create any fire access issues and Menard's is amenable to negotiate a (temporary) construction easement.

MOTION CARRIED, 5-0.

OTHER BUSINESS FOR INFORMATION PURPOSES ONLY OR FOR UPCOMING AGENDAS. Gray stated the detached garage issue (Appeal No. 233) was withdrawn. The applicant modified their design and did an addition to their residence.

Gray noted that he appreciated that the new members approved the minutes, and he wanted to let them know that they were not typical meetings. There were multiple issues with the St. Croix National Scenic Riverway and Department of Natural Resources involved. He also stated that he appreciated everyone coming.

Conard asked about the status of the Phillips Plastic project that was granted a variance. Gray stated that the ownership had changed, and the variance stays with the parcel.

Motion by Conard, second by Zimmerman to adjourn. **MOTION CARRIED, 5-0.** 8:11 p.m.

Respectfully submitted,
Elizabeth Moline, Secretary