



THESE ARE THE MINUTES OF THE **BOARD OF ZONING APPEALS** MEETING ON THURSDAY, **OCTOBER 10, 2019**, AT 7:00 P.M. HELD IN THE COUNCIL CHAMBERS AT CITY HALL, 2000 N. CALHOUN ROAD, BROOKFIELD.

MEMBERS PRESENT: Kevin Bublitz, Rod Carter, Frank DeGuire, Gordon Rozmus, Alderman Bill Carnell

MEMBERS ABSENT & EXCUSED: Alderman Ron Balzer (alt.), vacancy

ALSO PRESENT: Zoning & Building Administrator Larry Goudy

Kevin Bublitz called the meeting to order at 7:04 p.m. He stated that the notice of hearing has been duly published pursuant to the State open meetings law and explained the procedure to present the appeals to the Board this evening.

1. **Roll Call**

Mr. Bublitz indicated that a quorum is present and that the request for variances must receive the affirmative vote of three members of the Board in order for a request to be granted.

New Business:

2a. **September 12, 2019, Minutes**

- Ald. Bill Carnell moved approval of the September 12, 2019, Board of Appeals meeting minutes. Seconded by Gordon Rozmus and carried unanimously.

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Public Hearing & Consideration of Appeal: *Certain requests for building permits have been submitted to the City of Brookfield and have been denied by the Zoning & Building Administrator because they did not comply with the Zoning, Building or Sign Code of the City of Brookfield. There will be a Public Hearing held before the Board of Appeals on October 10, 2019, at 7:00 pm at the Council Chambers for the express purpose of considering the following request(s) for variance. Please note that following the public hearing(s) the Board intends to take action by considering the request indicated:*

3a. **Burleigh Crossing/TyJack LLC, 13905 and 13965 W. Burleigh Rd.: Staircase, Handrail, Sidewalk**

The next item was the request of Burleigh Crossing LLC, PT NW 1/4 SEC 13 T7N R20E CSM 3565 REC AS DOC 1089600 34,884 SQ FT EXCEPT 1568 SF/.036 AC FOR ROW RECORDED ON 9/13/07 DOC # 3512486 and TyJack LLC, PT NW1/4 SEC 13 T7N R20E COMM 273.26' E OF NW COR TO BEG, THCONT E 130' TH S 233.03' TH W 130' TH N 233.03' TO BEG 22,494 SQ FT to appeal section 17.52.020, to permit a staircase, handrail and sidewalk between 13905 and 13965 W. Burleigh Road. The required setback and offset areas do not permit structures of any kind in that area.

Mr. Goudy stated Section 17.52.020 requires a minimum of 10' for building or parking. Structures are not permitted in setback and offset areas. The proposed stairway and wall are

located on both properties. The purpose is to grant pedestrian access to a shared parking area at 13905 W. Burleigh Road. Currently, there is a building on that property that is vacant. Both properties are zoned B-1 Local Business. It is permissible in the City of Brookfield to have shared parking on another lot. The property at 13965 W Burleigh Road is underparked for the use. There is an agreement with the property owner to the east but they do not have a safe way to access that area. There is a sizable existing retaining wall that splits the two properties. They are requesting to remove part of that and create a staircase with a handrail. There is an existing easement with We Energies which they are working to get removed. Mr. Goudy stated notification was sent out to surrounding properties and staff received no comments.

Mark Hurtzfeldt, of Design2Construct, representing the applicant was present. There is a partnership between the two owners, Dr. Daryl Stich and Bob Patch. As they started to redevelop the property, they realized they were underparked and they were looking for a way to supplement it. He stated Planning Administrator Mike Theis agreed with that. The garage was taken down. The two areas now exceed the necessary parking for both buildings. They want a safe access to that point. There is a steep driveway to deal with as well. They are proposing to cut into the retaining wall and build the stair into it. Landscaping will be added in the area of the stairs. There is a current easement with We Energies but they have nothing in it. We Energies said they would be willing to vacate it all the way back within 20' from their utility in the corner of the lot.

Mr. Bublitz asked what the long term plan of the smaller building. Dr. Stich replied they are finalizing a lease to an in-home dialysis company. In the lease, they will get no more than 6 parking stalls. Mr. Carter asked what if one of the buildings is sold? Mr. Patch replied either they will join the partnership or a 100 year lease.

Mark Hurtzfeldt stated he assumed the city will require a cross access easement for them to cross both property lines. Mr. Goudy replied yes. Alderman Carnell asked if there were any residential next to the parking. Mr. Hurtzfeldt replied no. Mr. Rozmus asked who has liability on the staircase. Mr. Patch replied both of the partners. Mr. DeGuire asked if there was an ADA issue. Mr. Hurtzfeldt replied there is not because there is accessible parking on both properties and ADA does not address staircases out on a site. Mr. Patch replied employees will primarily use it. There is customer and handicap parking available.

Mr. Rozmus asked if there was a hardship. Mr. DeGuire replied each property by itself cannot achieve the necessary parking. Mr. Patch added that when the building was built, there was sufficient parking. As time went on and new tenants/uses were changed, the building became underparked. Mr. Bublitz further added that the property is unique because of the elevation differences. It if were flat, this wouldn't be needed. Mr. Carter added that this goes to safety reasons as well.

- Kevin Bublitz moved approval of the variance based on the necessary parking, the unique nature of the property, the elevation changes and concerns of safety. The motion was seconded by Rod Carter and carried unanimously.

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- Frank DeGuire moved to adjourn. Seconded by Kevin Bublitz and carried unanimously. Meeting ended at 7:16 p.m.