

NORTH HOLLYWOOD WEST NEIGHBORHOOD COUNCIL

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Dario Svidler

MINUTES

PLANNING & ZONING COMMITTEE

MONDAY, AUGUST 22, 2011

6:45 p.m.

Grace Community Church, Rm. J375 (Enter on Cantara St.)
13248 Roscoe Blvd. | Sun Valley, CA 91352

1. Call to Order and Roll Call
Meeting called to order at 6:50pm, all members present
2. General Public Comments on non-agenda items (see rules above)
No public comments
3. Discussion regarding and possible choice of chair
Dario Svidler nominated David Hechter as chair and Vincent Stamboni seconded. There were no further comments from the committee or public.
Vote: Ayes 3, Noes 0. David Hechter elected chair
4. Review application for Conditional Use Permit for the sale of Alcohol (#47-full on-site sales) at Ikyu Sushi, 12714-20 Sherman Way, North Hollywood. Case # ZA-2011-4845-1912-CUB & ENV-2011-4846-1913-CE
Chair gave background of applicant and purpose of CUB. Sherrie Olson represented the applicants. Restaurant had license for beer & wine but was suspended when ABC discovered there was no CUB in place and that it appeared the previous owner never had a CUB. Applicant indicated this was an oversight during the purchase of the existing restaurant 4 years before and there have been no other issues with the ABC or LAPD. Applicant is applying for a full spirits license since they have to go to the expense of a new CUB in an effort to maximize profits. Percentage of sales will be about 20% vs 15% for beer and wine.
Board questions and comments: why the need for more than beer & wine, how is this a benefit to the community? Will the open area ever be used for a bar? There is some concern regarding the owners understanding/following the requirements. The ABC limits the number of 47 licenses in an area, so having one at a restaurant with no freestanding bar would limit future locations that might have a bar area.
Applicant comments: Liquor will be served only with food; the floor plans indicate no freestanding bar and once approved stays with the CUB if business is sold; owner is now aware of all limitations and requirements; owner may add karaoke if approved by police department; no patrons will be allowed to take drinks outside, cameras will be in place to monitor.
Public comments: Concerns that liquor sales will increase criminal activity in area on Fri & Sat nights. Already have frequent helicopters at those times; that patrons will leave premises with their drinks or loiter outside.
In addition to the volunteered conditions, the committee asked that all liquor service halt at 11 pm and the applicant agreed.
Dario Svidler moved to recommend approval of the application with the included conditions and volunteered conditions. Vince Stamboni seconded. The motion passed 3 to 0.

5. Review of Zoning Variance application to build a 10,450 sq. ft. garage at 7936 Bellaire Ave., North Hollywood, for storage of commercial and non-commercial vehicles. Case # ZA-2011-1433-ZV & ENV-2011-1434-EAF

Chair described application and gave overview of case and description of the property. Property runs on an angle from Bellaire to Strathern, is zoned (T)-R-1, however the R-1 was never effectuated so the property is operating as RA (residential agricultural). RA zoning allows for 20% usage of property for building (just over 9000 sq ft), can be a combination of primary and accessory buildings. Bldg & Safety has determined that accessory buildings cannot exceed the size of the primary bldg. (which is apprx. 3247 sf). Chair stated what then appears to be the basis of the appeal for variance is 1. Size of accessory building; 2. Combined square footage on property; 3. Use for storing of commercial vehicles and property. James Crisp, applicant's rep, disputed there would be any commercial use. Chair indicated information provided by rep shows there to be commercial use, and that would be part of what the committee would be deciding. Mr. Crisp presented that: the property could be operated as a farm or with livestock; does not consider the parking of business vehicles to be a commercial use; that said vehicles would often be off-site weeks to months at a time and are ½ ton or less; trailers are 20ft or less; mailers were sent to required 500 ft radius, no objections were received and 3 in support were received; height is within limitations; owner will live at the property; Strathern is at 30% capacity and the project would only add 8 vehicles per day. Chair recited some of the permitted uses, including miniature golf and horse stable. Dario Svidler asked for clarification that an accessory building **cannot** be larger than the main building which the chair confirmed. He then expressed concern that he felt the applicant had indicated size was not an issue and that Mr. Crisp stated it was the use not the size at issue. Mr. Crisp stated it was a miscommunication and that he felt it was apparent in the application. The chair added that it may have also been a case of questions being asked based on a poorly worded and accepted application. Chair again repeated the facts of the case to clarify the issues, including the fact that storage of commercial vehicles **is** a commercial use (Mr. Crisp agreed to that limited definition), so that appropriate questions could be asked. Note: Some answers by Mr. Crisp and some by the project architect.

Question:	Answer:
How many employees would be coming to pick up vehicles	7
Where is business conducted from	Offsite, no employees on site except wife
What will happen to storage containers now on property	They contain plastic pipe (inventory) and will be in the garage
Will paving of property stop egress of dirt onto adjacent properties	Yes, the entire area will be paved
Is any landscaping planned for adjacent property side of garage	The set-back will allow for planting facing the other properties
Have other building materials been explored as mitigation	Yes, such as stucco for make it appear as a home
What negative feedback has been predominant	That there would be a manufacturing use, which is precluded in the application

Mr. Crisp also offered a 24-hr hotline to owner for any problems that might arise.

Public comment from speaker cards:

Sarah Imam read into the record a letter addressing why the variance should not be granted (see attached).

Gail Glazer – concerned about noise during the day (they work nights), added diesel exhaust in addition to freeway, trucks crossing sidewalk & bike lanes, height difference between property and their street causes any construction and fencing to obstruct views.

Other public comments: How do we know they won't change oil and fix tires?

Chair reiterated exclusions in application regarding mechanical work/vehicle repair.

6. Committee member comments on non-agenda items – Chair announced Fresh & Easy had received CUB.
7. Adjournment – Unanimous motion to adjourn at 8:40 pm.

ATTACHMENT(S)

ATTACHMENT 1

APPROVED 10/20/11 (as corrected)

VARIANCE:

I am speaking on behalf of my family who has lived in this neighborhood for over 20 years. We live next door to the proposed 10,000 sq ft garage which will run the length of our entire property. Our main concerns include commercial use in residential zoning, the decline in value of our property, and the scale of the building. Additionally, we are concerned that the main use of the land becomes parking vehicles rather than residential living which conflicts with the character of the neighborhood and is in conflict with R1 zoning, which is why LADBS states, "intensity of use is generally dependent on floor area."

My comments will primarily focus on responding to the points made by the owner regarding whether conditions have been met for the granting of a variance. According to a review of variance case law by the LA BAR Association (LABA), property owners are often told by local planning departments that they can easily be granted an exception to zoning restrictions. However, the requirements for variances under California law are very strict and as a result, variance approvals are often overturned in court.

The following are conditions that must be met in order for a variance to stand up in court and were outlined and addressed by the owner in the proposal sent to adjoining properties.

I will address each point briefly.

1. That application of zoning laws would impose practical difficulties and unnecessary hardship:

This hardship is self-imposed because the property was purchased last year with full knowledge of the current residential zoning law. According to the LABA review, self-imposed hardships include when a property owner purchases property in anticipation of obtaining a variance for a use forbidden at the time of purchase.

2. The variance is necessary for preservation of property right:

Here, the owner states that he requires this variance in order for his business Integral Engineering Services to, "continue to practice in a secure and profitable fashion". This is not what a variance is for as stated by California law. Variances are not granted to extend a resident's business to his residential property in order to maintain profitability. Only the situation of the land is considered, not the unrelated personal circumstances of the property owner. The owner also states that this garage would provide a convenient location for vehicle storage. The LABA review states that a variance is not intended to be used for the purposes of convenience or to increase the value of a property. If a property can be put to effective use, consistent with its existing zoning, the fact that a variance would make the property more valuable or increase the income of the owner is immaterial.

1. Variance needs to bring owner to parity with surrounding property owners in the same zone:

The granting of this variance would not bring the owner into parity with surrounding property because other owners in the area do not use their properties to maintain the profitability of their businesses. Rather it seems that building of this garage would grant a special privilege. The land in questions differs from surrounding plots only in terms of size of the property which the owner can enjoy to the extent that surrounding property owners in the same zone do. The owner may have a nursery, grow fruit trees, keep animals, build a larger home or a second home, enjoy the open space, and/or build an accessory building smaller than his primary residence. In short, the property owner has numerous options to enjoy the land he purchased last year with full knowledge of the restrictions of RA1 and R1 zoning. In the proposal the owner states that he can subdivide the land for R1 use but that it would be less profitable for him to do so. Again, according the LABA review this is not a consideration for granting a variance and is immaterial. In conclusion, the owner is already in parity with surrounding property owners in the same zone.

2. Granting of this variance will not be detrimental to the nearby property:

We have been told by a real estate agent that the construction of this garage would decrease the value of our property. **Additionally, the following statement was included in the proposal: The neighborhood is marginal in terms of age and maintenance and a change in land use from residential to industrial use might, at the very least be investigated.** I think this sentence betrays the owner's attitude towards our neighborhood and that his vision and goals for the future includes eroding our neighborhood instead of enhancing and preserving it.

3. Granting of the variance will not adversely affect any element of the General Plan:

I believe this project is inconsistent with the general plan because the general states a goal of "preserving single family residential neighborhoods" and their "protection from encroachment by incompatible uses" such as this garage.

These are just some of the reasons why I do not believe this variance would stand up in court if granted.