

EAST ROCHESTER ZONING BOARD OF APPEALS MINUTES

PLACE: 120 West Commercial Street, East Rochester Village Offices
DATE: May 18, 2010
TIME: 7:00pm

PRESENT:

Frank Barbero, Chairman
Margot Gilhart, Member
Matthew Fox, Member
Patrick Piccioli, Member
Tony Gonzalez, Member
Eric Schoenhardt, Member–Alt

Martin D'Ambrose, Village Administrator
Rob Leni, Village Attorney
Gary Smith, Parrone Engineering
Tracie Miller, Recording Secretary

Mr. Barbero called the meeting to order at 7:00pm.

1st Item on the Agenda: 501 West Commercial Street, parcel #138.75–1–10. Applicants John Miner, John Keim and Gary Keim of RW Manufacturing were present to request an area variance to meet the Village of East Rochester code for additional parking spaces.

John Keim introduced himself as the President and Founder of Richards and West. He stated that he currently has a purchase offer in on 501 West Commercial Street in East Rochester.

Ron Hall, Attorney for RW Manufacturing was also in attendance. Mr. Hall stated that RW Manufacturing was seeking a variance for parking at 501 West Commercial Street. The company employs 66 people at this time and the property can accommodate 38 parkers, including 3 handicap spots. Mr. Hall stated that the applicant would like a full variance because the current parking is not sufficient and it's in his clients' best interest to accommodate their employees. Mr. Hall said that RW Manufacturing has acquired 35 more spaces through a lease agreement, of which 12 are retail spaces. He stated that his client's cannot guarantee a lease is permanent in duration, but it appears that in the foreseeable future spaces are available that are not in public Village facilities.

Mr. Barbero asked if there were any other alternatives to accommodate parking. Mr. Hall said the company has explored other options, but not all met the code requirements and a lease option is the most convenient. Gary Smith responded that the property at 501 West Commercial Street has 35 on site parking spots and needs a total of 73 to meet the Village code requirements. Mr. Smith went on to say that a requirement of ownership is that parking must be within a 500 foot walking line to the work site and Mr. Mendick's property meets this requirement. Mr. Hall said he has issues with the East Rochester code as two of the five criteria address whether or not there is an undesirable impact on the area, which he doesn't believe there is. He went on to say that he doesn't think the difficulty is self created because the parcel has been this way for decades and used to house a manufacturing business. Mr. Hall also noted that the code was implemented long after the facility was built and that the parking plans do not impact the building addition. Mr. Hall pointed out that granting an area variance for parking would be an equitable decision for the Village by allowing an underutilized property to become viable and bring 66 jobs to the area.

Eric Schoenhardt agreed that RW Manufacturing would be an asset to the Village. He asked if they had a plan should they lose their parking lease. Mr. Hall said they are exploring Village municipal parking properties and shuttling employees. If necessary they may use Department of Transportation Park and Ride lots. Mr. Schoenhardt asked about the lease terms. Gary Keim said the lease with Mr. Mendick was undetermined in length, but Mr. Mendick agreed to lease parking space in the best interest of the Village.

Mr. Barbero asked if there was currently room at 501 West Commercial to add more parking spaces. Gary Keim said no, but he is working with a realtor looking for property to purchase for additional parking. Mr. Keim has been speaking with other companies in the area regarding parking leases, but they are not within the required 500 feet walking distance. He wants to make lease agreements that his employees feel comfortable with. Ms. Gilhart asked Gary Keim if his realtor would continue looking for property after they secured a parking lease. Mr. Keim said absolutely.

Tony Gonzalez pointed out that a 6 month lease is not a long enough agreement. Gary Keim said he would like a minimum of a two to three year parking lease. Mr. Piccioli asked how long it would be until the business would open and Mr. Keim said they are aiming for Labor Day. Margot Gilhart asked which area businesses RW Manufacturing has contacted regarding parking. Mr. Keim said they had contacted the Sunoco station on Roosevelt and Penfield Plumbing, in addition to Bill Mendick. Ms. Gilhart asked if they had contacted Crossman Seed, to which Mr. Keim replied yes.

John Keim said that before trying to start this venture he met with the Village Administrator to see if what they were proposing was possible. He went on to say that this is a million dollar investment for RW Manufacturing and is not a lightly taken concept. They realize there is considerable traffic on Commercial Street, but feel it is an excellent location for their business. Mr. Keim said that they could find a place outside of this community with 150 parking spots, but the East Rochester location is more ideal for them. Mr. Keim went on to say he didn't want the approval of his special use permit to be contingent upon the neighboring land owners.

Marty D'Ambrose mentioned that Wendy's Restaurant on West Commercial Street will be demolishing a building soon and that may open up some parking spaces. He suggested the Keims get in touch with Mr. Fox, the owner of Wendy's.

Eric Schoenhardt asked if this was the only way the Keim's wanted the Board to vote (fully unencumbered). Mr. Schoenhardt said if this happens and they lose their parking lease and their employees start parking all around the Village, it would damage the other East Rochester businesses. At this point Mr. Hall requested a moment to confer with his clients to discuss the lease terms and conditions.

Mr. Gonzalez said that neighbors had come to him with concerns. They are concerned about employees disregarding the rules and parking in areas not designated for them. Mr. Gonzalez asked how RW Manufacturing would address this issue should it occur. Gary Keim stated that he has spoken with a human resources firm to research these issues. He noted that enforcing the rules would be a simple task that would initially involve a verbal warning, then a written warning, then suspension and termination. John Keim said that the employees are their family and there is a mutual respect between them. If the Company respects the Village and its rules, their employees will too. Mr. Gonzalez asked what the Keim's considered fair notice for a lease termination to which they replied six months seemed reasonable.

The discussion was opened to the public and Mr. Ed Brown, the property owner at 507 West Commercial Street asked to speak. He said that he would like to have RW Manufacturing move in next door, he is just concerned with the parking and traffic issues. He mentioned that ten years ago he tried to get new tenants, but the Planning Board denied his application because of parking issues. He is concerned that the intersection they are located at is very congested with numerous accidents.

Gary Keim addressed Ed Brown by saying it was in RW Manufacturing's best interest to keep their employees out of certain parking areas, because there was also a need for retail parking. He realizes that the congestion can cause anxiety.

Rob Leni noted that this was an unlisted SEQR action that the Board needed to vote on. Matthew Fox made a motion for a negative declaration on SEQR and Patrick Piccioli seconded the motion. Voting was 6-0, in favor of a negative SEQR declaration.

Frank Barbero asked if there were any other public comments and there were not. Tony Gonzalez made a motion to close the public comment session and Matthew Fox seconded the motion. Voting was 6-0, all in favor.

Eric Schoenhardt told the Keims to use the "fire power" the Board was giving them to tell Bill Mendick they needed to get a two year lease and they have 60 days to acquire it. Mr. Keim responded that he would like to think Mr. Mendick would be reasonable about the request.

Mr. Hall asked if the variance was only issued for distance and not the number of spaces. Gary Smith replied that RW Manufacturing needed to own parking or have parking under their control; such as a lease. Mr. Hall said if the only reason a variance was needed is to meet the 500 foot distance requirement then RW Manufacturing has no bargaining power. He requested that if alternate parking arrangements were made offsite, the Board remain flexible to give the lease owner more than enough bargaining power.

Gary Smith said that the Fairport Park and Ride cannot be used because it is New York State DOT property and the additional space needs to be under RW Manufacturing's control. Rob Leni agreed with Gary Smith. John Keim mentioned that St. John Fisher College uses the Park and Ride lot and Gary Smith said they have an agreement in place with New York State. Mr. Hall said they were looking for a counter balance for bargaining power with the landowner and that the business can't be held hostage or it will lose its special use permit. Mr. Schoenhardt asked what Mr. Hall proposed to which Mr. Hall said he'd like other Village parking to use.

Marty D'Ambrose went on to say it's been a pleasure working with the Keims and if the Village's attorney and engineer don't agree that it can be done, then we can't do it. There are spots available on Main Street to Washington which the Village cannot legally lease out, but are available for use. Gary Smith pointed out that RW Manufacturing would not have "control" of these parking spots. Mr. D'Ambrose said he would like to work out the best possible

arrangement, but doesn't have the ability to tell the Board what to do. Mr. Schoenhardt said he would like RW Manufacturing to come to East Rochester, but he is cautious about setting a parking precedent.

Mr. D'Ambrose left the room to call Bill Mendick. Upon his return he said Bill and the Keims did not discuss a two year lease, just six months to a year. Mr. Mendick said he wanted to see how things go before locking into a long term lease. Mr. Mendick also stated that he hoped to be long term partners with the Keims. Mr. Hall asked that the Board not put a two year duration on the lease procurement as it was unreasonable. Mr. D'Ambrose reiterated that Mr. Fox of Wendy's may have land available, which could be a long term solution.

Gary Smith said Mr. Mendick has parking at Techniplex I and II, Farash property, and the former Sofas and Chairs site. All property for sale is most likely not encumbered at the present time.

Mr. D'Ambrose acknowledged that snow removal in the area can be difficult. He went on to say the Village does not plow the lots, but will haul away snow that is piled too high by the sidewalk and roadside. The Village tries to help with snow removal for safety issues.

Matthew Fox made a motion to grant an area variance for parking requirements within the Village with the following conditions; 1) That the lease(s) for alternative parking need to meet the minimum number of spaces to be in compliance with the East Rochester Building Code for off-street parking and if the lease(s) fall through the lessee has six months to obtain more parking spaces with the 500 foot walking requirement waived for any new leases(s). 2) All lease(s) acquired need to be for a period of two years or more. Patrick Piccioli seconded the motion. Voting was a unanimous 6-0, all in favor.

Old Business:

A motion to approve the December 15, 2009 meeting minutes was made by Margot Gilhart and seconded by Tony Gonzalez. Voting was a unanimous 6-0, all in favor.

A motion to adjourn was made by Matthew Fox and seconded by Margot Gilhart. Voting was a unanimous 6-0, all in favor. The meeting was adjourned at 8:15pm.

Recorded by Tracie Miller
Building Department Clerk