

ALTON PLAN COMMISSION MINUTES
CITY COUNCIL CHAMBERS
MARCH 8, 2016 – 1:15 p.m.
(As unapproved by the Plan Commission)

PRESENT: Mark Hackworth (Chairman), John Rain, Joe Blair, Gary Doerr, Terry Dooley, James Rogalsky, Eva Perkins

ABSENT: Todd Harpole, Martha Kane, Barry Clayton

OTHERS PRESENT: Matt Asselmeier (Deputy Director of Development and Housing), Jim Schrempf (Corporation Counselor), Alderman Charles Brake, and Micky Jones (Secretary)

Chairman Hackworth called the meeting to order and asked for a roll call. Roll call was taken with 7 present and 3 absent. Motion was made by Gary Doerr and seconded by Joe Blair to approve the minutes of the regular meeting of February 23, 2016. Vote was 7 to 0 in favor.

Chairman Hackworth introduced the new members to the Plan Commission, Eva Perkins and James Rogalsky.

Ebony Pirtle and Keith Brown petitioned for a special use permit to operate a child care center at 935 Tremont.

**Motion was made by John Rain and seconded by Terry Dooley to open the public hearing.
Vote was 7 to 0 in favor.**

Ebony Pirtle stated she has an in-home child care that is licensed through the State of Illinois. It is not a child care center. She was on line checking for any other licenses required and saw that she needed a special use permit from the city. The difference with an in-home care center is she works more one-on-one with the family and children. She is allowed 7 children at one time.

Questions from the Plan Commission:

- Her sister helps her with the center.
- She has children from 6 weeks old to 12 years old.
- Hours of operation – 6:00 a.m. to 10:30 p.m.
- Provided are 3 meals and 2 snacks.
- 1,255 square foot house.
- The State of Illinois said she could use the backyard, but she will not be using it for now until she updates it. She will be taking down the trampoline.
- She is renting the house from Keith Brown.
- The basement level will not be used for the care center.
- She has not talked to the neighbors; there is a day care center at the end of the street.
- Will there be adequate off-street parking? Mr. Asselmeier said yes.
- The spindles on the back porch were discussed. Four inch is required. The Fire Department looked at it. She will not be using that area for the children. This will be added to the list of restrictions for the special use permit.
- Will there be a fence from the front door to the back yard. Ms Pirtle said yes.

No questions or comments from the public.

Matt Asselmeier read his attached memorandum.

**Motion was made by Gary Doerr and seconded by Terry Dooley to close the public hearing.
Vote was 7 to 0 in favor.**

Motion was made by John Rain and seconded by Terry Dooley for a special use permit to operate a child care center (uses within NAICS Code 6244) at the property identified by parcel ID number 23-2-07-12-06-104-034, more commonly known as 935 Tremont, Alton, Illinois, with restrictions stated in the resolution.

**Vote was 7 to 0 in favor.
Adjourn 1:30 p.m.**

Refer to Chairman Mark Hackworth's letter dated January 18, 2016, see attached. Chairman Hackworth explained the attached letter submitted by him.

Mr. Asselmeier explains that it comes down to non-conforming use or grandfathered in; after 9 months grandfathering is lost if not used. You have 2 options:

- To allow the non-conforming use to expire and either demolition the property (if in poor shape) or
- To allow someone to repair the structure and make an investment in the property by obtaining a special use permit.

Mr. Asselmeier stated it would be best to try to find a way to work with these applicants according to the city code for a special use permit. On commercial structures, it would be best to amend the zoning code and allow special use permits. The advantage to this would be to evaluate the uses as they come to us and put restrictions on it. Many will be commercial in a residential area. Alton is an old city and we have to make provisions. He explained the downtown zoning including commercial and residential. We cannot completely separate uses. We have to approach each case differently. We have to decide what uses to allow and not allow. The special use permit is the best way to go. Look at each applicant's proposal and make recommendations.

Jim Schrempf stated he agrees with Mr. Asselmeier. The non-conforming use system is in place and effective. This is a case-by-case basis. The goal is not to encourage non-conforming uses, they will go away eventually. Accommodations should be made. If the building is in bad condition, demolish it. In zoning cases, it is a judgment call.

Chairman Hackworth stated, in using the NAICS Code, we can make modifications for each special use permit. The way we operate now is the best way.

Mr. Asselmeier is now reviewing new business license applications for compliance.

Chairman Hackworth asked if we should start putting a time limit back on the special use permits? Mr. Asselmeier stated it is lawful now. This could be a hassle for the business owner, a downside. The advantage would be that we could address issue if we need to.

Mr. Schrempf stated this would be difficult on the business owner if they had not violated the terms. Mr. Asselmeier stated they would have to follow applicable laws.

Gary Doerr stated in the past when we did have a time restriction on the special use permits and they had a negative impact on the neighborhood, the council/alderman became involved. Mr. Doerr is an advocate of the time limit. This would give us a reason to shut the business down. There was much discussion on this.

Mr. Schrempf stated he somewhat disagreed. How would you set the time limits, who would follow up on them, etc? Chairman Hackworth stated this could create many more meetings in a year.

Alderman Brake spoke in regards to this matter. He said it comes down to a lack of communication, this is the problem. Mr. Schrempf thanked Alderman Brake for speaking and stated he would like more aldermen to attend these meetings for their input.

Attachments

Adjourned 2:20 p.m.

MEMORANDUM

TO: The Alton City Plan Commission

FROM: Matthew H. Asselmeier, MPA, AICP, Deputy Director of Development and Housing

DATE: March 1, 2016

RE: Special Use Permit for a Child Day Care Center at 935 Tremont Street. (P.I. #: 23-2-07-12-06-104-034).

Ebony Pirtle and Keith Brown petitioned the Alton City Council for a special use permit to operate a Child Day Care Center (uses within NAICS Code 6244) at 935 Tremont Street.

Background

According to information provided to the City, Ebony Pirtle would like to operate a child day care center at the subject property, which is owned by Keith Brown. Ms. Pirtle currently lives at the subject property and would like to operate her day care service, A Touch of Love, LLC, at the same location.

Ms. Pirtle has secured a license for a day care service at the subject property from the Illinois Department of Children and Family Services (DCFS). Her license was issued on December 4, 2015, and expires on December 4, 2018. Per her license with DCFS, she would be allowed to have a maximum of seven (7) children on the property. When her daughter reaches the age of thirteen (13), Ms. Pirtle could increase the maximum number of children on the property to eight (8). Also per her license with DCFS, Ms. Pirtle is not allowed to use the backyard for a playground area; she would need to take the children to a nearby playground if she desired to use playground equipment. If approved, Ms. Pirtle would be one (1) of eighteen (18) licensed day care centers in the 62002 ZIP Code.

Ms. Pirtle leases the subject property from Mr. Brown on a yearly basis. The house is one (1) story with a basement. The house is approximately one thousand two hundred fifty-five (1,255) square feet and was built between 1890 and 1920, based on information from the Alton Township Assessor's Office. The petitioners possess a valid occupancy permit for the property which lists a maximum occupancy of five (5) people. Three (3) individuals, including Ms. Pirtle, are listed on the occupancy permit. The property also possesses an unsecured fenced backyard. Pictures of the subject property are included as Exhibit A. A copy of Mr. Brown's letter of support for this request is included as Exhibit B.

The anticipated hours of operation for the proposed business are 6:00 A.M. until Midnight, with no overnight stays. The age range for the children would be between six (6) weeks and twelve (12) years of age. Ms. Pirtle would be the only full-time employee; she may hire her sister on a part-time basis, if the business does well. All food and supplies related to the business would be stored in the kitchen or in the closets. All meals would be prepared in the kitchen. Any medications would be kept in the basement. Ms. Pirtle possesses approximately fifteen (15) years of day care experience as a side job to other jobs. She believes the location near Lovejoy Elementary School would help her business. If granted approval, she hopes to start her business as soon as possible. The business possesses a website, <http://www.atouchoflovefromus.com>.

No glare, lighting, or noise is anticipated to arise from the proposed use. No new exterior lighting is planned. The petitioners currently use Allied Waste/Republic Services for their trash removal service and intend to continue using their services. No toxic materials shall be located onsite.

Ms. Pirtle has prepared a sign (a banner) which will be hung on the fence immediately to the east of the structure, facing Tremont Street. The banner will not be lit. Ms. Pirtle was advised to bring the sign to the public hearing before the Plan Commission.

The property possesses a driveway off of Tremont Street. Pursuant to 11-9-5(C)(9)(a), the proposed use is required to have one and one half (1.5) off-street parking spaces for staff and a drop-off area. The property meets this requirement.

The petitioners have installed a security system with cameras on the property. The fence could be improved for security as well. A speed limit sign (30 MPH), a "Slow-Children at Play" sign, and a "Neighborhood Watch" sign are located on Tremont Street directly in front of the property. A fire hydrant is located on the opposite side of Tremont Street at its intersection with Pleasant Street. A streetlight is also located across Tremont Street from the subject property.

The subject property is zoned R-2 (Single-Family Residential District). All of the adjoining properties share the same zoning classification.

The proposed use is a special use within the R-2 (Single-Family Residential District). The properties at 929 Milnor Street, 1053 College Avenue, and 1046 Tremont Street possess special use permits for child day care centers; 929 Milnor is a church and does not have a license through DCFS; 1053 College is Marcia's Child Care and is licensed through DCFS; 1046 Tremont does not possess a license through DCFS.

On February 17, 2016, Ms. Pirtle met with Matt Asselmeier, Fire Captain Rick Orban, and Police Sgt. Terry Buhs. A tour of the building occurred at that time. Based on the findings of this tour, the inspectors of the City of Alton expressed no concerns regarding the ability of the building to structurally support the proposed use provided that the minor building and fire safety issues were addressed.

Findings

The following factors, as detailed in Section 11-11-3 of the Alton Zoning Ordinance, must be reviewed in consideration of the special use permit:

- A) Whether the proposed special use is consistent with the city's comprehensive plan and will not impede normal, orderly development of the neighborhood.

Comment: The proposed special use of the property is consistent with existing land use in the area and other similar uses nearby.

- B) The compatibility with surrounding uses and compatibility with the surrounding neighborhood, including any substantial impact on property values.

Comment: The proposed use is compatible with the surrounding neighborhood; Lovejoy Elementary School is located less than two (2) blocks from the subject property.

- C) The comparative size, floor area, mass, and general appearance of the proposed structure in relationship too adjacent and buildings in the surrounding properties and neighborhood.

Comment: Provided that the petitioners stay in the guidelines of their license from DCFS, the property should be adequate for the proposed use.

- D) The amount of traffic movements generated by the proposed use and the relationship to the amount of traffic on abutting streets and on minor streets in the surrounding neighborhood in terms of the street's capacity to absorb the additional traffic and any significant increase in hourly or daily traffic levels.

Comment: The traffic generated at the subject location by the proposed use should be handled by the existing public right-of-ways surrounding the property.

- E) The added noise level created by activities associated with the proposed use and the impact of the ambient noise level of the surrounding area and neighborhood.

Comment: No increase in noise level is anticipated.

- F) The impact of night lighting in terms of intensity, duration, and frequency of use as it impacts adjacent properties and in terms of presence in the neighborhood.

Comment: No additional night lighting is anticipated.

G) The impact of the landscaping of the proposed use in terms of landscaped areas, buffers and screens.

Comment: No additional landscaping is planned.

H) The potential for the proposed use to remain in existence for a reasonable period of time and not become vacant or unused. Consideration should also be given to unusual single purpose structures or components of a more temporary nature.

Comment: If the day care operations cease, the structure could easily be used for residential purposes.

I) Whether there are any facilities near the proposed use (such as schools or hospitals) that require special protection.

Comment: Lovejoy Elementary School is located within two (2) blocks of the proposed use and should not be negatively impacted by the proposed use.

J) The effect of the requested use on the health, safety, morals and general welfare of the residents of the area in the vicinity of the property in question and the residents of the city generally.

Comment: If operated in accordance with all applicable laws, no adverse impacts are anticipated.

OTHER ISSUES & COMMENTS

Staff recommends the following restrictions and conditions for placement on this special use permit:

1. The owners of the special use permits awarded by this ordinance shall follow the signage regulations for businesses located in the C-1 (Neighborhood Commercial) District.
2. The operation of the businesses allowed by this special use permit shall be done in accordance with all applicable Federal, State, and local laws in accordance with the standard operating practices of these types of businesses.
3. Failure to comply with the above restrictions and conditions may be interpreted as a failure to comply with the regulations and restrictions of the special use permit. If this occurs, the City of Alton may revoke the special use permit under the procedures outlined in 11-11-4(B).

CORRESPONDENCE RECEIVED

Favorable: None as of the date of this Memo.
Unfavorable: None as of the date of this Memo.

PAST SPECIAL USES FOR SAID PROPERTY

* None.

January 18 2016

Mark Hackworth
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Alton, IL 62002
altonmark@mac.com
618-444-7391

Matthew Asselmeier
Deputy Director Department of Development and Housing

Dear Matt,

As you well know, the Plan Commission recommendations have been overruled several times in the past few months. The question has been raised as to why the city needs a Plan Commission if its recommendations are overturned. I feel we provide a valuable service for the city and the people of Alton. Citizens can come to our Public Hearings and voice their opinions concerning a zoning request without the pressure of speaking before the Mayor and City Council. We also conduct an in-depth discussion of the proposal, as well as comments for and comments against the proposal. We make a recommendation to the City Council based on several things.

I feel the biggest consideration is and should be the question of whether or not the the request is consistent with the Comprehensive Plan. The Plan is a living, breathing thing. As the city changes, there are always going to be adjustments to the Comprehensive Plan. The current danger is that, in my opinion, we are opening up precedents that we are not going to be able to defend at a later date; for instance, allowing only one special use for a particular land use within a zoning district. I don't think we have any recourse when we do that.

Regarding the above, we request some guidance from the appropriate entity in the city of Alton. I think we understand that some uses need to be allowed in order to keep some buildings from becoming derelict in a neighborhood. These changes should be such that they don't compromise

the Zoning District they are located in. There are many commercial structures throughout town that were legal nonconforming uses over the years and are now abandoned. I think we are on shaky ground when the only reason we allow a special use for a building is that it is empty and has always had a commercial use. Undoubtedly other cities have these same problems. The Plan Commission needs some guidance and structure on how to approach this dilemma, that is legal and consistent with the guidelines of the Comprehensive Plan. How do we do this without drafting another Comprehensive Plan? This, obviously would be very expensive and time consuming.

Matt, if you agree with the foregoing, please notify Jim Schrempf, members of the Commission and anyone else to whom you think this would be of interest. Also, if you agree, I would appreciate this discussion being placed on the agenda for the meeting on February 2nd. Feel free to attach this letter to the agenda.

Let's at least start to address this problem and find some realistic, sound and legal ways to bring this situation under control.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Mark Hackworth".

Mark Hackworth
Alton Plan Commission Chairman