

Zoning Board of Appeals
Special Meeting/Public Hearing
November 30, 2015
6:30 PM

A special meeting was called to hold a Public Hearing to hear comments on the Use Variance Application submitted by Stephen Mizgala to open a Pizza Café at 544 Lakeview Drive.

Members present: Don Butler, James Marvin, Steven Carr, John Stano
Member absent: Stephen Higgins {called in}

Also present: James Eves, Mayor of Dexter
Mark Gebo, Village Attorney
Stephanie Ferguson, Planning Board Member
Steven Mizgala, Applicant
Zed and Sherri Addison, Residents
Christopher and Sue Bourn, Residents
Anthony Pecori, Resident

Quorum: Yes

Meeting called to order by Chairman Don Butler at 6:30 PM.

Motion John Stano 2nd Steven Carr to open the Public Hearing.
Ayes: 4 Don Butler, James Marvin, Steven Carr, John Stano
Nays: 0

Stephen Mizgala informed the meeting of his intentions to open a pizza café at the former Crescent's Pizza site at 544 Lakeview Drive. His background is in the food service business, having recently worked at various eateries in Sackets Harbor. He stated he will clean up the property and make repairs to the inside of the building. His family has owned the property since 2007 and he has wanted to open the business since 2008. The business will be a small Italian-styled Pizza café serving pizzas, salads, pasta etc. The café will be primarily a take-out & delivery business. There will be room for 20-25 people to dine within the café. He may expand it to catering in the future. He possibly may serve beer and wine. Café will close by 10:00 PM. Mr. Mizgala states there will be no entertainment or bands performing at the café. There is no room for entertainment. He will improve the parking lot, probably with crusher run for the time being.

Mr. Mizgala feels there is plenty of room for parking. Cleaning up the property will add to the betterment of the neighborhood.

Residents' concerns are as follows:

- ~ Increase of traffic in the area.
- ~Speed of traffic in the area.
- ~Delivery drivers "peeling" out of the café and speeding down Lakeview Drive.
- ~Residents asked Mr. Mizgala to be aware of the delivery drivers and how they enter and exit parking lot.
- ~Trash/garbage to be concealed at all times. Area to be clean.

~The Addisons are concerned because of the closeness of their property to the proposed business. They would like reassurance that their driveway will not be blocked and patrons will not be parking on their property. They want no encroachment on their property. They suggested the possibility of a fence being built to clearly separate the properties.

~Concerns of trash still being on the property since the closing of Crescent's Pizza in 2007.

~Room for parking and lighting concerns.

~Residents express their wish for Mr. Mizgala to keep a tight rein on the business.

Motion John Stano 2nd Steven Carr to close Public Hearing.

Ayes: 4: Don Butler, James Marvin, Steven Carr, John Stano

Nays: 0

Motion James Marvin 2nd Steven Carr to open public meeting.

Chairman Butler ask Mr. Mizgala to answer the four questions that must be considered for a Use Variance.

1) The applicant cannot realize a reasonable return, provided that lack of return is substantially as demonstrated by competent financial evidence.

Mr. Mizgala's response: The property was purchased in 2007 for \$50,000.00. The present assessment is \$32,000.00. It would very costly to tear down building and rebuilt. He feels there can be no return without opening a business.

2) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.

Mr. Mizgala's response: The location has always had a business of some type on the property. The property borders the streets on two of its three sides. The property has never had a residence on it.

3) The requested variance, if granted, will not alter the essential character of the neighborhood.

Mr. Mizgala's response: The character of the neighborhood will be changed but only for the betterment of the neighborhood. The property will be cleaned up and many improvements will be made to make the property more attractive.

4) The alleged hardship has not be self-created.

Mr. Mizgala's response: Feels the hardship was not self-created. Property was falsely advertised as a turn-key business on a commercial lot. The property was bought through a real estate agency and the Mizgalas had a lawyer representing them. Mr. Mizgala feels his family bought the property under false pretenses, believing the property was all approved to open a business.

Suggestions for contingencies that should be attached to Use Variance if approved as follows:

1) Fence Barrier between the property presently owned by Sherri Addison, located at 542 Lakeview Drive.

2) Downward lighting as not to disturb neighboring properties.

3) Trash and garbage contained/enclosed at all times.

4} Application sent to Planning Board for a Special Use Permit.

Motion John Stano 2nd Steven Carr to poll the members for the vote on the use variance.

Ayes: 4 Don Butler, James Marvin, Steven Carr, James Marvin

Don Butler: Yes {In agreement with Mr. Mizgala's answers to the four factors to consider when issuing a Use Variance. Mr. Butler stated his feelings are the Mizgalas were falsely misled when purchasing the property.}

John Stano: Yes {In agreement with Mr. Mizgala's answers to the four factors to consider when issuing a Use Variance. Mr. Stano stated Mr. Mizgala addressed the four question well and agreed there has always been a business in the said location.}

Steven Carr: Yes {In agreement with Mr. Mizgala's answers to the four factors to consider when issuing a Use Variance. Mr. Carr stated the property has always had a business on it and the neighborhood will be enhanced by the upgrades and improvements that will be made to it. He stated Mr. Mizgala will be doing a service to the community.}

James Marvin: No {Not in agreement with Mr. Mizgala's answers to the four factors to consider when issuing a Use Variance. Mr. Marvin stated he feels it will change the character of the neighborhood and stated he does not believe there is enough room for parking or enough room in the building for 25 patrons to be seated.}

The Board approved to grant {three yes and one no} the Use Variance to Stephen Mizgala with the following contingencies:

1} A fence barrier will be constructed between the proposed business {544 Lakeview Drive} and the property presently owned by Sherri Addison {542 Lakeview Drive}.

2} Downward lighting will be installed as not to disturb neighboring properties.

3} Trash/garbage will be contained and enclosed at all times.

4} Application will be sent to the Planning Board for Site Plan Approval.

Motion John Stano 2nd Steven Carr to approve minutes from the special meeting held on November 27, 2015. No corrections.

Ayes: 4 Don Butler, James Marvin, Steven Carr, John Stano

Nays: 0

Motion James Marvin 2nd Steven Carr for adjournment.

Ayes: 4 Don Butler, James Marvin, Steven Carr, John Stano

Nays: 0

Meeting adjourned at 7:24 PM.

