

3. Site Plan Approval – City File No. 87-829.2

Project: A proposed 5,700+ square-foot addition to Abiding Presence Lutheran Church
Requests: Conditional Land Use Recommendation
Buffer Modifications
Site Plan Approval
Location: North side of Walton, East of Livernois
Parcel: 15-09-378-022, zoned R-2, One Family Residential
Applicant: Abiding Presence Lutheran Church
1550 Walton Blvd.
Rochester Hills, MI 48307

(Reference: Staff Report prepared by Derek Delacourt, dated June 15, 2004 had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Arthur Kalajian, Arthur Kalajian & Associates, Architect, Pastor McKinny, Jim Schock, Chairman of the Church's Building Committee, and Teon, Sujak, Mickalich and Associates, Inc. Civil Engineer.

Mr. Delacourt advised that the applicant was requesting an approximately 5,700 square-foot addition to the existing church facility. There was a previously approved Site Plan and Conditional Land Use. The applicant was required to obtain a Revised Conditional Land Use, Revised Site Plan Approval and Buffer Modifications for the existing conditions. They were only requesting changes to the church building. He advised that all applicable departments had reviewed the Plan and had recommended approval. There was no Tree Removal Permit or Wetland Use Permit required. Staff believed that the Plan met the conditions for Revised Conditional Land Use and Site Plan approval. He referred to the letter from the City's Landscape Architect regarding the Buffer Modifications, which also indicated approval.

Mr. Kaiser asked Mr. Delacourt to explain why Buffer Modifications would be needed. Mr. Delacourt replied that they would be needed as part of the Site Plan Approval because the buffer was non-conforming to current Ordinance standards on both the east and west sides. There was not a 25-foot width or the exact standard for the six-foot opaque screen for either side. They looked at trying to fill in the site, and the Landscape Architect worked with the church to add plantings, without having to install a wall or berm. Staff did not feel it would be reasonable to ask the applicant to rip up the parking lot to provide the 25-foot width. The Landscape Architect felt the existing plantings supplemented with what was being proposed would meet the intent of the 20-foot IVO. He added that they tried to take an existing situation and enhance it.

Mr. Kaiser asked why the site was non-conforming. Mr. Delacourt said it was non-conforming in width on the east and west sides because of the existing parking lots. Mr. Kaiser asked how it got that way. Mr. Delacourt said it was approved that way originally. Mr. Kaiser asked if the same Ordinances were in place then. Mr. Delacourt advised that he did not look at the motion to see if a Buffer Modification was granted originally or if the Ordinance was not in place.

Mr. Kaiser said he was a little uncomfortable for the reason given to grant the Buffer Modifications. Normally, when one was granted, it was because the purposes of the Ordinance could not be met. Mr. Delacourt said that Staff looked at this and felt this was the best-case solution to meet the intent of the Ordinance without taking out the parking lot and adding a wall would do more damage to the existing vegetation.

Mr. Kalajian pointed out that both uses to the east and west were not residential; there was a day care center to the west and to the east was a church used as an elderly care facility. They sent a letter to the people to the west and they did not want a thick buffer because they would be worried about people hiding and snatching the kids at their center. The applicant proposed adding arbor vitae for that spot. He noted that the vegetation to the north was very thick and that the site was fairly well landscaped. They cut out some parking spaces to the north to add greenbelt and landscaped islands.

Mr. Kaiser asked how they would use the addition. Mr. Kalajian said it would be used for classrooms. There would be a small expansion (about 50 people) to the Sanctuary. He noted that the parking met the extra membership already and that if they needed to expand in the future there was plenty of room to the north for parking.

Mr. Kaiser said the Commission was being told that the reason they should grant the Buffer Modifications was because it did not seem reasonable to do something to the parking area. He felt that someday the church would have to expand. If the reason not to tear up the parking lot now was to save money, yet someday the applicant would come back and ask for just that, it would change tonight's justification or make it moot. He indicated that the issue was that the Ordinance would allow the Commissioners to do certain things, but only for certain reasons. The only reason given why the Buffer should not be in complete compliance was that it was unreasonable to make the applicant tear up the parking. He suggested that if the church grew in the future, they would have to tear up the parking area.

Mr. Delacourt said that if there was a proposed expansion and they had to re-adjust the parking, Staff would recommend that the applicant had to come into conformance, unless there were non-residential uses to the east or west. Mr. Kaiser asked if it was residential uses or zoning that was considered. Mr. Delacourt replied zoning and that was why the Buffer Modifications had to be requested. He advised that a Modification would not run in perpetuity with the land.

Mr. Kaiser said that when the Commissioners approved commercial development, they used that as an opportunity to bring the parking, landscaping, and so on, into compliance. The rules could not be different, and for economic reasons, for the applicant. He felt that if Staff did not require compliance, if the applicant came back with another expansion, that the reasoning would not be in place. He wondered why a Buffer Modification was needed as part of the request.

Mr. Delacourt replied it was because the Plan did not meet the standards of the Ordinance. Mr. Kaiser said that non-conformance occurred before the meeting and it was not being driven by the addition. Mr. Delacourt reiterated that Staff tried to improve the buffer to meet the intent.

Mr. Rosen asked Mr. Delacourt where in the Ordinance the language about not meeting the buffer requirements was. Mr. Delacourt said he was not familiar with that, but he thought it read that if the Planning Commission felt the intent was met, it could modify the buffer. The Ordinance would allow the Planning Commission to make the decision about whether a modification should be granted. Mr. Rosen referenced Page 138-146, Section 138-1218 and read that "the Planning Commission may reduce or waive screening and buffer requirements after a detailed review and evaluation of an alternative screening plan. It shall find that the following standards have been met: The landscape/screening plan should protect the character of new and existing residential neighborhoods. The Planning Commission shall determine the screening, width and type of buffer zone needed to ensure compatibility based on the following criteria: The development is compatible with and sensitive to the immediate environment; the site has natural existing vegetation and or/topography or other existing conditions which offer screening consistent with the standards set forth; the arrangement, design and orientation lends itself so as to maximize the opportunity for privacy and isolation from negative impacts." He noted that it did not say anything about whether there was a hardship needed to waive the screening. He acknowledged that it would be a pain to tear up the asphalt, but he wanted to know what gave the Planning Commission the authority to waive the buffer requirement.

Mr. Delacourt said he felt the chapter Mr. Rosen referred to gave the Commission that authority based on the alternative screening plan, which was what the Landscape Architect reviewed and agreed met the requirements and was a viable alternative. He noted that the uses next to the site were not residential.

Mr. Kaiser opened the Public Hearing for the Conditional Land Use at 8:40 p.m. Seeing no one come forward, he closed the Public Hearing.

Mr. Kalajian said there was more landscaping than what was shown on the Plan. He noted that there were trees along the perimeter of the property and he felt that putting a fence in might even damage the root system of the neighbors' trees. He suggested that for the future, the Ordinance could consider non-residential uses rather than the zoning. Mr. Kaiser explained that the current Ordinance speaks to adjacent zoning rather than current uses.

Mr. Rosen questioned when the original church was built. Mr. Kalajian answered that it was done in phases in the 1950's, 1960's and 1970's. Mr. Rosen noted that it was built before the current Ordinances.

Mr. Rosen referred to the discussion regarding expanding the church, and asked about the plans for the next phase. Mr. Kalajian said he brought a master plan for the church, which showed a building expansion to the east and the parking to the north. He noted that there was no timeline currently. Mr. Rosen said that the Planning Commission had the ability to ask for a comprehensive plan for a site. He was a little concerned that this might go from a very modest structure, as it was today, to an imposing structure. Mr. Kalajian said they would have to meet the Ordinance every step of the way. Mr. Rosen said that might be true, but the Planning Commission would look at compatibility with adjacent uses and zoning. An expansion might require some substantial parking modifications and what the Planning Commission required today could result in a much better buffer zone 10-20 years from now. If they waited until then, the buffer would be small and scrawny. If they did something today, it could be fully-grown in and look nice by that time. Mr. Rosen said he would be concerned about granting a Buffer Modification for a project that had a 10-20 year window.

Mr. Kaiser commented that the applicant was in front of the Commission with a request to *not* comply with the Ordinances, and that would continue if the church expanded. Mr. Kalajian said that in other communities, the parking could usually be left alone until necessary for a development, and Mr. Kaiser referred him to a building nearby this site for which the applicant had to make substantial changes to the parking. He said he had a problem giving a Modification tonight that would be hard to take back down the road if there was more development. Mr. Rosen read Section 138-1227, Waiver of Requirements: "The Planning Commission or official approving the Site Plan may waive or reduce the requirements of this division upon determining that the following would apply: The purpose of this division cannot be met; and compliance with the requirements would impose a practical difficulty on the applicant or would create safety hazards to pedestrians or motorists." He clarified that the words practical difficulty meant that there was something about the property that would not let the applicant do what they wanted to do. Normally, an applicant would ask for a variance, but in this case, the land prohibited putting up trees.

Mr. Delacourt stated that standard referred to waiving the requirements, not modifying them. The section regarding Buffer Modifications listed the standards that had to be met. Staff was not asking that the standards be waived, just modified. Staff believed the applicant had met the standards.

Mr. Kaiser noted there had been instances where Commissioners were compelled to grant modifications because they felt it was right, but in this case, if the site were going to be brought into compliance, now would be the time, before the church expanded. He questioned whether they had to consider the Buffer Modifications at all.

Mr. Boswell acknowledged the 25-foot width mentioned by Mr. Kaiser, but he questioned the six-foot opaque wall and the IVO, and asked if those were being met with what was there now. Mr. Delacourt said the standard was met with existing vegetation, but there was not a wall proposed, which would harm the existing vegetation.

Mr. Boswell said that given Mr. Delacourt's statement, it would seem that if the Buffer Modifications were not granted, they would be telling the applicant to destroy what was there. He did not have a problem with it, and said he could understand part of the objections, but he did not feel they could tell the applicant they had to destroy what was

there. Mr. Kaiser said he would rather not have to even consider the Modifications. Mr. Boswell said he felt they could modify the Plan according to what was shown, but they did not have to follow the requirements to waive.

Mr. Rosen clarified that because this was a non-conforming site, by approving a Site Plan that granted the Buffer Modifications, when it came time to re-do the site, the applicant could rely on that and not come into conformance. Mr. Kaiser said that was correct for the reasons being given tonight. Mr. Rosen said the question was whether they could condition the Buffer Modifications on the subject Site Plan and not on a future Site Plan.

Mr. Kaiser agreed that had been done before. The modification would eliminate the buffer requirements on the east and west side. In the future, the applicant would not do much to the east or west side, so if it was good enough now, it would be good enough for the future.

Ms. Ruggiero asked Mr. Delacourt if removal of just the parking spaces would satisfy the 25-foot width requirement, or if it would impact the driveways as well. Mr. Delacourt said there was good chance that everything would have to be re-arranged. He did not think just eliminating the parking spaces would solve the problem at this point. Ms. Ruggiero said that was what she was concerned about and she believed that might also impact future expansion and construction on the site.

Mr. Kaltsounis noted that on one page of the Plan they showed 20-foot long parking spots and 27-foot wide driveways. Ms. Ruggiero asked if they were at capacity for parking on Sundays. Pastor McKinny replied for one service.

Ms. Brnabic asked if there were 20 spaces over the requirements, considering the addition. Mr. Delacourt replied yes. He explained that the addition of classrooms would not affect the church parking. They discussed adding a Condition to the motion for Conditional Land Use Recommendation.

Mr. Rosen asked to see the Master Plan for the site. Mr. Kalajian warned that it was not in compliance, and he explained the future expansion and where the parking would be. Mr. Kaiser felt there would be other ways to design the expansion to make sure it could be accommodated.

MOTION by Hardenburg, seconded by Brnabic, in the matter of City File No. 87-829.2 (Abiding Presence Lutheran Church), the Planning Commission **recommends** to City Council **approval** of the **Revised Conditional Land Use**, based on plans dated received by the Planning Department on May 11, 2004 with the following five (5) findings and subject to the following one (1) condition:

FINDINGS:

1. Since churches are permitted in any zoning district, the use is consistent with the intent and purpose of the Zoning Ordinance in general, and of Section 138-1337 in particular.
2. The proposed development has been designed to be compatible, harmonious, and appropriate in appearance with the existing character of the general vicinity and adjacent uses of land.
3. The proposed development is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage ways, and refuse disposal.
4. The development should be not detrimental, hazardous, or unreasonably disturbing to existing land uses, persons, property, or the public welfare.

5. The development does not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

CONDITIONS:

1. Any future additions or changes to Site Plans from the one submitted May 11, 2004 shall be accompanied by an entire Site Plan that in all ways complies with then existing buffer, width and Intermittent Visual Obstruction Ordinance requirements.

Voice Vote:

Ayes: Boswell, Brnabic, Hardenburg, Hill, Hooper, Kaiser, Kaltsounis, Rosen, Ruggiero

Nays: None

Absent: None

MOTION CARRIED

MOTION by Rosen, seconded by Kaltsounis, in the matter of City File No. 87.829.2 (Abiding Presence Lutheran), the Planning Commission **grants** the following **Buffer Modifications**, based on plans dated received by the Planning Department on May 11, 2004, with the following two (2) findings and subject to the following two (2) conditions.

- Buffer Modification to reduce the required 25-foot width on the east and west portions of the site to what is existing and shown on the Site Plans. Although both abutting parcels to the east and west - where the 25' foot width requirement is not met - are zoned residential, neither parcel is developed with a residential use. In addition, the need for the modification from the width requirement is not created by the proposed addition, but rather, by the existing approved and conforming development.
- Buffer Modification to use existing vegetation on-site to provide the required six-foot opaque screen and twenty-foot Intermittent Visual Obstruction (IVO). The applicant has worked diligently with Staff to provide additional plantings to meet the intent of both the IVO and the opaque screen requirements. The City's Landscape Architect recommends that the existing buffers supplemented by additional plantings meet the intent of the "Type B" Buffer and provide significant screening for the site.

FINDINGS:

1. Due to the existing parking on the west and east portions of the site, and because abutting parcels to the east and west are not developed as residential uses, the proposed buffer width shown on the plans is sufficient to meet the intent of the ordinance.
2. Existing vegetation on the site supplemented by the additional proposed plantings meet the intent of the "Type B" Buffer for both the six-foot opaque screen requirement and the 20-foot IVO requirement.

CONDITIONS:

1. That City Council approve the Site Plan and Conditional Land Use for plans dated received May 11, 2004.
2. Any future additions or changes to Site Plans from the one submitted May 11, 2004 shall be accompanied by an entire Site Plan that in all ways complies with then existing buffer, width and Intermittent Visual Obstruction (IVO) Ordinance requirements.

Voice Vote:

Ayes: Boswell, Brnabic, Hardenburg, Hill, Hooper, Kaiser, Kaltsounis, Rosen, Ruggiero
Nays: None
Absent: None

MOTION CARRIED

Mr. Rosen asked how the new addition would compare with the old. Mr. Kalajian explained that the brick would be carried through and that the roof would be the same. He explained some of the architectural features and said they were carrying the same theme throughout. A condition was added regarding matching the new and existing elevations.

MOTION by Kaltsounis, seconded by Brnabic, in the matter of City File No. 87-829.2 (Abiding Presence Lutheran Church), the Planning Commission **approves** the **Site Plan**, based on plans dated received by the Planning Department on May 11, 2004, with the following five (5) findings and subject to the following six (6) conditions.

FINDINGS:

1. The site plan and supporting documents demonstrate that all applicable requirements of the Zoning Ordinance, as well as other City ordinances, standards and requirements, can be met subject to the conditions noted below.
2. The proposed church will continue to access Walton Blvd.
3. Off-street parking areas have been designed to avoid common traffic problems and promote safety.
4. There should be a satisfactory and harmonious relationship with existing contiguous development and adjacent neighborhoods.
5. The proposed development should not have an unreasonably detrimental nor an injurious effect upon the natural characteristics and features of the site or those of the surrounding area.

CONDITIONS:

1. That the applicant submit a Landscape Performance and Maintenance Guarantee in the amount of \$22,725.00 for a period of two growing seasons, to be adjusted by Staff if necessary, prior to issuance of a Land Improvement Permit.
2. That if the City's Forestry Department determines that site construction activity damages any of the five regulated trees in the Walton Blvd. right-of-way, the applicant will be required to remove and replace them at the time of inspection prior to issuance of a Certificate of Occupancy.
3. That the applicant obtain all necessary Oakland County Drain Commission and Soil Erosion Permits prior to construction.
4. That a Land Improvement Permit shall be required from the City's Engineering Services Department prior to work on the site.
5. That City Council approve the Conditional Land Use as recommended for plans dated received May 11, 2004.
6. That the addition elevation matches the existing brick and roof materials and design themes.

Voice Vote:

Ayes: Boswell, Brnabic, Hardenburg, Hill, Hooper, Kaiser, Kaltsounis, Rosen,
Ruggiero
Nays: None
Absent: None

MOTION CARRIED

ANY OTHER BUSINESS:

Mr. Kaiser mentioned the idea of scheduling a special meeting in place of the August 3, 2004 meeting that was cancelled due to the elections. No date was set at the meeting.

NEXT MEETING DATE:

The Chair reminded Commissioners that the next special meeting was scheduled for June 29, 2004.

ADJOURNMENT:

Hearing no further business to come before the Planning Commission, the Chair adjourned the regular meeting at 9:20 p.m., Michigan time.

Eric Kaiser, Chairperson

Maureen Gentry, Recording Secretary

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