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The Board of Zoning Appeals (BZA) met in a virtual (Zoom) meeting at 5:30 p.m. Members present: Barre Klapper, Flavia Burrell, Susan Sandberg, and Jo Throckmorton.

APPROVAL OF MINUTES: October 22, 2020, March 18, 2021, and May 20, 2021

****Sandberg moved to approve the October 22, 2020 minutes. Burrell seconded. Motion carried unanimously by voice vote.**

****Sandberg moved to approve the March 18, 2021 minutes. Burrell seconded. Motion carried unanimously by voice vote.**

****Sandberg moved to approve the May 20, 2021 minutes. Burrell seconded. Motion carried unanimously by voice vote.**

REPORTS, RESOLUTIONS, COMMUNICATIONS:

Mike Rouker, City Attorney, reported on Resolution 20-01. All City Boards and Commissions have begun adopting similar policies, including the City Council regarding hybrid meetings so we call this our *Electronic Meetings Policy*. Beginning July 1 the Governor's Executive Order that authorized fully in-person meetings is set to expire, and the Governor has been very clear that he will not be extending that order. We are all going to get used to having in-person meetings again starting in July, but there is a new provision that was passed by the State legislature this past legislature session that allows for what are called hybrid electronic meetings. In that case, as long as not more than 50% of the members of a Board or Commission are participating remotely, and as long as they can participate simultaneously, Board and Commission members can continue to participate remotely. There are some limitations on this such as you can't participate in more than two consecutive meetings remotely. The policy also contains a provision that says, "*If any member of the Board is participating remotely, members of the public may also participate remotely and Staff may participate remotely if it's practical for that to happen.*" This also includes petitioners.

Barre Klapper asked about public notification regarding Zoom meetings. Rouker said as long as the legal notice includes the date, time, and of the meeting location then the legal notice is compliant. The Zoom component just gives an alternative option. It isn't legally required that we publish the Zoom link. Of course as soon as we know that the meeting is also going to be a hybrid meeting, with a Zoom component involved, we will let the public know as soon as possible by posting it on the website just like we've done throughout the pandemic.

Discussion ensued regarding the logistics of having one screen versus split screens during hybrid meetings. Rouker explained that IT has been working on that. The Council Chambers is particularly well set up for both in-person and remote participation so he doesn't expect that it will be a problem. Sandberg added it's going to be additional work for whoever the Staff person(s) are running the meeting, as well as having to pay attention to who is waiting in the Zoom room but I think we're going to work things out as we go.

****Sandberg moved to adopt Resolution 20-01. Burrell seconded. Motion carried unanimously by voice vote.**

PETITION WITHDRAWN:

V-06-21 **David Kerber**
2400 W. 3rd St.
Request: Variance from front yard parking setback requirements.
Case Manager: Keegan Gulick

PETITION CONTINUED TO: July 22, 2021

CU/V-19-20 **Robert Iatarola**
1504 W. Arlington Rd.
Request: Conditional Use approval for a Home Occupation in the R2 zoning district. Also requested are variances to allow a Home Occupation to be located within an accessory structure and to allow deliveries (of pallets) to the property.
Case Manager: Jackie Scanlan

V-05-21 **Nancy Armstrong**
619 W. Fess Ave.
Request: Variance from rear yard setback requirements for a detached Accessory Dwelling Unit (ADU).
Case Manager: Jackie Scanlan

PETITIONS:

V-08-21 **Starbucks Coffee Company**
S. Liberty Dr. (Parcel #53-09-12-101-001.000-016)
Request: Variance to allow vehicle parking in excess of the Maximum Vehicle Parking Allowance for a "restaurant".
Case Manager: Jackie Scanlan

Jackie Scanlan presented the staff report. This 1.05 acre property is located northeast of the intersection of S. Liberty Dr. and W. State Road 45 and was zoned Planned Unit Development (PUD) at the time of filing. The properties to the north, east, and west were within PUD 26 at the time of filing and have been developed with commercial uses. The

property to the south was a part of PUD 83 at the time of filing and has been developed with commercial uses. The petitioners are proposing to construct a 'restaurant' at this location, with a total of 33 parking spaces. PUD 26's District Ordinance does not create standards for parking and loading. The UDO limits "restaurant" uses to a maximum vehicle parking allowance of 10 spaces per 1,000 sq. ft. Gross Floor Area (GFA) of indoor seating, and 5 spaces per 1,000 sq. ft. GFA of outdoor seating. The proposed site design would allow for a maximum of 11 spaces. The petitioners are proposing to include a total of 33 vehicle parking spaces on the site. The 22 spaces over the limit are proposed to utilize permeable pavers. The petitioners are requesting a variance to allow 22 parking spaces over their maximum vehicle parking allowance. No injury is found with the allowance of additional parking spaces. The spaces will be designed as permeable to offset their runoff and the site will still meet impervious surface requirements. No adverse impacts to the use and value of the surrounding area associated with the proposed variance are found. The variance is not expected to have off-site negative consequences, and in fact, will allow for more room on the site to hopefully decrease vehicular stacking. While it seems likely that practical difficulty can be found in the use of the property based on expected use, a need for triple increase of parking allowance has not been demonstrated. The Department requested additional information related to similar store locations, and has not received that information. Based upon the written report, the Department recommends the Board of Zoning Appeals continue the petition to the July 22nd BZA hearing.

Mike Timko of Kimley-Horn Associates is representing the petitioner. Starbucks is very excited to be opening a second location especially with I-69 coming through where it is now. The site is unique because of its location and proximity to the interstate. Normally you would see a little more pedestrian traffic, but in this case, you probably wouldn't due to the interstate which means many more customers are coming via car. The number of individuals coming to a Starbucks compared to a regular restaurant by themselves is proportionally high. Everyone knows seating in Starbucks is also unique in that it's set up more like Café-style compared to the traditional restaurant setting where there are booths and tables. Due to the interior space being small compared to the amount of traffic that's coming through, it puts us at a pretty big disadvantage. This restaurant anticipates having a peak employee shift of 10 people, so right off the bat, we would be using 10 of the 11 spaces just for employees. Also 3 of these 33 parking spaces would be designated for mobile pickup orders only. Curbside pickup is becoming extremely popular in the restaurant industry and folks don't expect this new trend to go away even when the pandemic goes away. Regarding parking count; we're looking at providing 1 space per employee. At the maximum shift, we're providing 3 designated parking spaces for mobile order pickup and 1 space for 1-1/2 seats available inside the building. As Jackie mentioned, we weren't able to provide a full blown traffic study report prior to this meeting. From his experience Starbucks' goal is to land in the 30-35 parking count range. We think it's extremely important to provide an adequate number of parking spaces so our customers aren't parking on neighboring properties. We also want to make sure there is enough parking so that it's not coming in conflict with the drive-through either, especially during the peak hours.

BZA Discussion:

Susan Sandberg said this location is a heavy employment area and she imagines this Starbucks is going to be one that attracts quite a bit of business, perhaps more than just the drive-through business where people want to take advantage of the Café space. I'm assuming this will be an internet Café with Wi-Fi where people can come in and do work inside, is that true? Timko said that is correct. Sandberg thinks it might be a good idea to gather the number of employers around the site that could very well be part of your business. Barre Klapper asked Staff about parking counts for restaurants per square feet of seating area and if there are allowances made for employee parking. Scanlan responded that it's based on the seating area. In the new code there is some leeway to allow you to have more parking if you can demonstrate that you indeed need more, but I think in this case it was kind of borderline.

No public comments.

Back to the petitioner or associated parties:

David Kaman, property owner, is speaking in favor of the petition. I think if it gets continued we will have some timing issues in terms of getting the building up before winter. I think it's pretty obvious that Starbucks in general, this one of course, is going to need parking to operate because their stores are so busy. I think the project will be great for the community. My wife and son are looking forward to it because their office is right down the street. I'm hoping that we don't continue to wait for some more information as to why they need parking, but if you have to—you have to, and I understand. Eric Kaman, son of David Kaman, also spoke in favor of the proposed Starbucks and how they need additional parking especially during the rush hour. Additional parking is necessary for the tenant to operate and not have the burden of people parking everywhere or having traffic backed up. He said we want to make this a clean, nice use, and a good operation for the community.

BZA Comments:

Sandberg asked for clarification with respect to the traffic study and who was supposed to do the study and if their study would include other Starbucks in the B Bloomington area. Jackie Scanlan, Development Services Manager, said for example when Culver's came in on W. Third Street they made a similar argument that the type of service they provide is not a typical restaurant. Reason being, because you order and they make the food, then have people waiting including the people eating inside and people arriving. Culver's provided numbers or hourly counts for 3 days within a one-week period. Scanlan explained you would do a study involving a suburban Starbucks that is adjacent to a highway (similar to this one) and the numbers should show, maybe not 33 every hour, but in the high 20's and they max out daily, which is what we've seen in the past with traffic studies. Sandberg added we don't really have any data to go by with this particular location. We are coming out of a pandemic in which people are staying in their cars and enjoying pickup opportunities, but my concern is that we're starting to near the end of the pandemic and I think more people may be more likely to parking and go inside. I guess we need more data? Scanlan said Staff didn't want to make the petitioner continue to the July meeting but instead wanted the BZA to discuss it because Starbucks is a well-known brand. Scanlan said I think we would feel more comfortable with hard numbers but wanted to leave that up to the Board. Jo Throckmorton said I'm

not really inclined to grant relief on this one three times the size and the parking is a huge jump. There are also issues in terms of public safety including the safety of those that use the facility. All you have to do is look down the street at the other Starbucks and they have cars backed out into the road, because they simply don't have enough room to accommodate the drive-through especially at peak times. The space between the slant parking (as you come in), it's a 12-foot wide entrance to the south, and if they have backed up cars you aren't going to be able to use the spaces as they are designed which is to go in and then leave. People aren't going to be cognizant of cars that are parked that's just the way it is. The other issue is providing 10 spaces for employees. I can understand having a few more spaces for customers, but to try and jam 10 employees at peak hours on top of 22 other spaces, three of which they have chosen to designate for curbside pickup is going to be a nightmare. Throckmorton said the whole site plan is going to be a nightmare to get in and out. You already have an existing restaurant to the north and a bank to the south. Throckmorton added that it's also located very close to a lighted intersection with a lot of traffic. Given the small amount of space I don't think it's workable. Klapper asked the petitioner to talk about the design approach where all the traffic enters into the parking lot, you place your order, then go to the window. Klapper said having gone to a lot of Starbucks I know that is a standard design. Klapper asked the petitioner why this makes sense for the business. Timko said this site is dramatically different from the other Bloomington location. He explained that things are setup like they are in relation to where the drive-through is located because it maximizes the amount of drive-through queuing possibilities. Starbucks has done substantial studies regarding appropriate spacing from the menu board to the pickup window. They found this new spacing of 120 feet is approximately 6 cars and it allows them to maximize their operational efficiencies when it comes to how many people are waiting in line after placing their order, so there are going to be efficiencies that haven't been seen in Bloomington before when it comes to this drive-through facility. Timko asked what would need to be done for this to be possible because they have maximized the drive-through length. He said we're trying to provide additional parking so that people aren't getting in the way of each other, by having a one-way flow with a wrap around in the front to keep the flow of traffic moving. If this were a two-way, it would be all the more complicated. Timko said they worked with Engineering and Planning staff on having two one-way entries as opposed to one shared entry, in order to promote better flow of traffic coming in and out. Scanlan reported that the Plan Commission added a condition that the entry drive be striped to delineate the space so that it's clearer (sooner) for drivers when you get on-site where the drive-through lane is located. Throckmorton thinks there are other options for parking instead of jamming 33 spaces into this site. There is a huge parking lot across the street with unused spaces. Why not rent 10 parking spaces for employees from there? Klapper asked if anyone discussed shared parking. Timko didn't think so.

Back to the petitioner or associated parties:

Eric Kamen explained a lot of Starbucks that are located on interstates are on one-half of an acre which is a tighter area and causes more concern for traffic jams. The petitioner wanted to use a full acre so it's a bit more comfortable to get in and out of the site.

Timko, petitioner's representative, said one-half acre is the absolute smallest but there have also been quite a few stores on three-quarters of an acre too.

BZA Final Comments:

Klapper said it would be very helpful to get a better understanding of what the expectations are for the performance of the site and whether the petitioner would be open to looking for some off-site/shared parking opportunities. She thinks shared parking is an excellent suggestion given there is an enormous surface parking lot across the street so she would be interested in hearing more about it. Throckmorton added that the S. Walnut St. Starbucks is almost identical to this one with a wraparound drive-through. Traffic is always backed up on Walnut and it's an incredibly dangerous parking lot. Discussion ensued regarding what the typical size is for a parking space and whether the petitioner met code requirements for parking space size. Scanlan said the petitioner meets the code requirement for parking space size but not the number of spaces. Throckmorton confirmed that if there were more seats inside or outside the building there would be more spaces that the Board could grant on-site. However, Scanlan said in order for that to happen it would have to be three times the size it is right now. Sandberg said she wanted to clarify that the waiver is for the number of parking spaces and not design review, although it's very helpful to compare and contrast the urban Starbucks we're familiar with within the City and this location which has been described as more of a rural area on a major interstate. In Sandberg's mind it's comparing apples to oranges so she wants to be clear about that moving forward when a determination is made regarding parking maximums. Scanlan said the variance request is for the number of parking spaces but it is okay to discuss the wider plan and the effects of what that variance would mean if the petitioner were asking for 60 versus 33 parking spaces. Other concerns involved cars being lined up in the drive-through or idling cars versus parked cars; the existing road being heavily traveled; safety in/out of the site. Klapper added that the BZA isn't qualified to do a safety analysis of the drive-through; however, thinking about the number of parking spaces and how that may help or hinder the function of the site is well within the Board's understanding of granting a variance. Burrell believes in order for this Starbucks to work it needs parking during peak hours and times. Discussion ensued regarding continuing this petition to the July 2021 hearing. Klapper thinks it would be helpful to know the number of stacked vehicles you're likely to see during peak times. Throckmorton said he's concerned about the proposed 33 parking spaces and not the location itself.

Timko, petitioner's representative, said we have conditional approval from the Plan Commission and that is to go before the Board of Zoning Appeals to get this number of parking spaces approved or to meet code which would be 11 spaces. Legally we can move forward with 11 spaces and be on our merry way.

Scanlan added that 33 parking spaces is part of the grading permit review right now, but if Timko wanted to submit a new drawing showing 11 spaces and get a grading permit

for that he could. Yes, there would be a way to keep it moving forward, I think, because the stage you're in right now would just be earth moving and not actual construction.

Timko explained that what he said in his previous statement isn't what he wants to do by any means, but we're doing what we think is best for everybody. If there are so many traffic concerns, I'm confused as to why removing parking stalls is going to help.

Scanlan responded by following code at 11 parking spaces you're going to have a lot less congestion and opportunity for accidents and other problems. If the Board decides to consider this tonight, you will have to make a third finding because we didn't include that one in the information packet, indicating that we thought the petitioner had established "*practical difficulties*" because we don't think they have so far.

Flavia Burrell questioned being able to support a third finding without studies being done. Scanlan said Staff's suggestion was that comparable numbers (traffic study) would be a good basis for the third finding. If you make a motion to deny the variance, then you will need to say for the proposed finding that, "*Practical difficulties are not demonstrated for this site.*"

****Sandberg moved to continue V-08-21 to the July 22, 2021 meeting in order to obtain more information from the petitioner that could help resolve the Findings of Fact for the third criterion. Klapper seconded. Motion carried by voice vote 4:0.**

Meeting adjourned.