

November 9, 2021
Page 1



**DES PLAINES PLANNING AND ZONING BOARD MEETING
November 9, 2021
MINUTES**

The Des Plaines Planning and Zoning Board held its regularly scheduled meeting on Tuesday, November 9, 2021, at 7:00 p.m. in Room 101 of the Des Plaines Civic Center.

Chairman Szabo called the meeting to order at 7:03 p.m. and read this evening's cases. Roll call was established.

PRESENT: Catalano, Fowler, Szabo, Veremis (via phone)

ABSENT: Hofherr, Saletnik, Weaver

ALSO PRESENT: John T. Carlisle, AICP, Director/Community & Economic Development
Jonathan Stytz, Planner/Community & Economic Development
Nancy Peterson/Recording Secretary

A quorum was present.

Due to technical difficulties, the meeting was recessed at 7:06 p.m. Chairman Szabo reconvened the meeting at 7:31 p.m.

CHAIRMAN ANNOUNCEMENT

The Public Hearing for 301 W. Oakton, Case 21-45-TA-CU, is canceled. The petitioner submitted a withdrawal statement in writing before the creation of the agenda but after the publication of legal notice. Those in attendance regarding this matter should be aware this hearing will not take place.

APPROVAL OF MINUTES

A motion was made by Board Member Fowler, seconded by Board Member Catalano, to approve the minutes of October 26, 2021, as presented.

AYES: Fowler, Catalano, Veremis, Szabo

NAYES: None

ABSTAIN: None

*****MOTION CARRIED *****

November 9, 2021
Page 2

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

None

NEW BUSINESS

1. Address: 290 N. Eighth Avenue

**Case Number: 21-031-V
Public Hearing**

The petitioner is requesting a Standard Variation from Section 12-7-2(J) of the Des Plaines Zoning Ordinance, as amended, to install an addition to a single-family detached home that would be set back less than 25 feet from the rear property line, and the approval of any other such variations, waivers, and zoning relief as may be necessary.

PIN: 09-18-400-006-0000
Petitioner: C. Rocco Castellano, 30 N. Vincennes Circle, Racine, WI 53402
Owner: Joan Van Zandt, 266 N. 8th Avenue, Des Plaines, IL 60016

Chairman Szabo swore in C. Rocco Castellano, Architect, Petitioner for the property located at 290 N. Eighth Avenue, Des Plaines. Mr. Castellano stated that the original request was for a minor variation, but it was not viable. The owners want to add a bedroom and a garage, increase the curb appeal, and preserve the side yard.

Chairman Szabo asked if the Board had any questions.

Member Catalano asked if the owner is aware of the five conditions of approval requested by Staff. The Petitioner stated that they are aware of the conditions and will comply.

Mr. Andrew Guinane, 284 N. Eighth Avenue, stated that he lives next door to the property. This is a lot of permeable surface; he is concerned about water flow and drainage; he has had water problems in the past and has installed service drains to help. Member Catalano stated that one of the conditions of the Petitioner is that no drainage concerns are to be created with the construction of the addition.

Ms. Leszek Zmyslowski, 378 N. Eighth Avenue, stated that she lives next door to the property and is in support of the request; the plan looks appealing and matches the neighborhood.

Mr. Grazyna Zmyslowski, 378 N. Eighth Avenue, stated that there is a lot of grass across the street in the Park District Park for water; the City should take care of any drainage issues.

Member Fowler asked what material is being used for the patio and driveway. The Petitioner stated that the driveway is concrete and the patio is brick pavers.

November 9, 2021
Page 3

Chairman Szabo asked if the owners considered brick for the driveway. The Petitioner stated he hasn't reviewed brick pavers for the driveway with his clients.

Chairman Szabo asked that the Staff Report be entered into record.

Issue: The petitioner is requesting a Standard Variation to install a one-story room addition that will be set back less than 25 feet from the rear property line, as required by Section 12-7-2 of the Zoning Ordinance.

Address: 290 N. Eighth Avenue
Petitioner: C. Rocco Castellano, 30 N. Vincennes Circle, North Bay, WI 53402
Owner: Joan Van Zandt, 266 N. Eighth Avenue, Des Plaines, IL 60016

Case Number: 21-031-V
PIN: 09-07-407-029-0000

Ward: #7, Alderman Patsy Smith

Existing Zoning: R-1, Single Family Residential District

Existing Land Use: Single Family Residence

Surrounding Zoning: North: R-1, Single Family Residential District
South: R-1, Single Family Residential District
East: R-1, Single-Family Residential District
West: R-1, Single Family Residential District

Surrounding Land Use: North: Single Family Residence
South: Single Family Residence
East: Chippewa Park & Pool
West: Single Family Residence

Street Classification: Eighth Avenue is classified as a local street.

Comprehensive Plan: The Comprehensive Plan illustrates the site as single-family residential.

Project Description: The petitioner, C. Rocco Castellano, on behalf of owner Joan Van Zandt, is requesting a Standard Variation to install a one-story room addition on an existing single-story single-family detached house. The new enlarged house would encroach 7.5 feet into the required minimum rear yard and be set back 17.3 feet from the rear property line, where a minimum setback of 24.8 feet (just less than 25 feet) is required. This requested relief would amount to a 30.24 percent reduction in the rear yard, which cannot be granted through a minor variation by the zoning administrator and must instead be a standard variation by the PZB.

November 9, 2021
Page 4

The subject property consists of two lots totaling 8,623 square feet and is currently improved with a one-story, 1,184-square-foot residence, a 120-square foot breezeway connecting the house with a 264-square foot single-car attached garage, an uncovered patio, private walks, and a concrete driveway, as shown in the Plat of Survey (Attachment 3). At its closest points, the existing house is set back 24.40 feet from the east (front) property line, 31.58 feet from the west (rear) property line, 25.40 feet from the south (interior side) property line, and approximately 12.09 feet from the north (corner side) property line. See the Existing Conditions Photos (Attachment 7) for more information on the current conditions of the subject property.

The petitioner is requesting to demolish the existing breezeway and attached garage to construct a new 24 feet long by 32 feet wide attached garage with a new 14.17 feet long by 24' feet wide breezeway totaling 1,108 square feet in area as illustrated on the Site Plan (Attachment 4). The resulting area for the entire residence would be 2,292 square feet with the addition, which is still in line with the maximum 35 percent building coverage requirement for the R-1 district. The enlarged breezeway will include a new bedroom, bathroom, and expanded kitchen area, and the enlarged attached garage will include a mud room and space for up to three vehicles/storage as illustrated in the Floor Plan (Attachment 5). The proposed room addition will be designed to match the exterior building materials, height, and overall appearance of the existing residence for all elevations as illustrated in the Elevations (Attachment 6).

The proposed one-story room addition results in an addition to the principal structure that is greater than a 15 percent change of gross floor area and appearance altering renovations to the front and corner facades of the principal structure. This degree of changes requires the project to comply with the Building Design Review standards in Section 12-3-11 of the Zoning Ordinance. Under these standards, all detached, one-story single family residences must be constructed with 100 percent face brick, natural stone, or anchored or adhered masonry veneer on all exterior elevations. The proposal includes the installation of face brick matching the existing residence for a majority of the proposed elevations, but do indicate that a portion of the new attached garage addition will be improved with siding as illustrated in the Elevations (Attachment 6). While the proposed face brick and siding match with the existing residence, the proposed siding is not a permitted ground-story material pursuant to this code section. Staff has added a condition that 100 percent of the ground-story elevations are improved with face brick in conformance with Section 12-3-11 of the Zoning Ordinance. Aside from

the room addition, there are no proposed changes to the remainder of the residence.

Variation Findings: Variation requests are subject to the standards set forth in Section 12-3-6(H) of the Zoning Ordinance. Staff has the following comments based on the standards. The PZB may use staff comments, the petitioner's response, or state their own comments as rationale for their decision.

- 1. Hardship: No variation shall be granted pursuant to this subsection H unless the applicant shall establish that carrying out the strict letter of the provisions of this title would create a particular hardship or a practical difficulty.**

Comment: Staff does not see a hardship or practical difficulty preventing the petitioner from complying with the minimum rear yard setback, as there are opportunities to construct the room addition without a variation. First, the code requires a rear yard setback of 25 feet or 20 percent of lot depth, whichever is less. In the case of the subject property, the lot depth of 123.98 feet yields a minimum rear yard setback of 24.8 feet (123.98 square feet x 20 percent), which is additional space that may not be available to surrounding properties with different lot depths. Additionally, the subject property has plenty of available space to the south for the proposed addition that would fit inside the buildable area due to the space provided by the portion of Lot 2 that is south of the residence as indicated on the Plat of Survey. Contrary to the Petitioner's written statement, the interior lot line indicated on the Plat of Survey indicates a portion of another lot, which is under common ownership and included with the subject property, providing additional lot area that many corner lots, like the corner lot across the street at 310 Eighth Avenue, do not have available. The interior side yard to the south of the residence, which requires a minimum 5-foot setback from the south property line, presents an appropriate area for part, if not all, of the proposed addition that could accommodate the space requested by the applicant. The residence is set back 30.2 feet from the property line at its southeast corner and 25.4 feet from its closest point to the south (interior side) property line leaving a minimum of 20.4 feet for the addition to be located. It is important to note that the existing yard designations, including Eighth Avenue as the front yard, the west property line as the rear yard, Stone Street as the corner-side yard, and the south property line as the interior side yard, provide sufficient space for the proposed addition. This is because having Stone Street as the front yard would make the existing residence non-conforming with the minimum front yard setback and still not provide much space for the proposed addition on the west side of the property. See the Petitioner's responses to Standards for Variations.

- 2. Unique Physical Condition: The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.**

Comment: There is not an obvious, unique physical condition on the subject property than differs from any other property along this street as there are several other corner lots in the immediate area and throughout Des Plaines that have similar shapes and yard designations to the subject

November 9, 2021
Page 6

property but are subordinate in size, such as 196 Eighth Avenue, 210 Eighth Avenue, and 195 Wolf Road. The subject property, while being a corner lot, is a fairly typical shape and size that allows for more development opportunities within the letter of the code where other properties may be more constricted by their attributes, such as 310 Eighth Avenue across the street from the subject, which is over 2,500 square feet less in area, limiting the development of that lot. The request appears to be more of a personal preference of the property owner instead of a definable physical condition. Nonetheless, see the Petitioner's responses to Standards for Variations.

3. Not Self-Created: The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this title.

Comment: While the subject property's location, size, and development may not be a result of any action or inaction of the property owner, the subject property was purchased with the understanding of these attributes and conditions. In addition, there is already an accommodation for two off-street parking spaces as required by code – granted, they are not both within a garage – and sufficient room within the buildable area to provide an additional covered garage space without a variation. As such, these physical conditions of the subject property would not warrant the approval of a variation for the proposed room addition for additional storage and garage space as other corner lots in Des Plaines deal with similar circumstances. See the Petitioner's responses to Standards for Variations.

4. Denied Substantial Rights: The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other lots subject to the same provision.

Comment: Staff finds that carrying out the strict letter of this code to require the room addition to be set back 24.8 feet from the rear property line would not deprive the existing property owner of substantial rights enjoyed by other owners of similarly zoned lots since this regulation is enforced for all residentially-zoned properties regardless of size, location, and composition of the property. Since this corner lot enjoys additional area that is not afforded to all corner lots in Des Plaines, there is more than ample room to accommodate a two-car attached garage in the buildable area within the letter of the code. All room additions are held to the same standards under Section 12-7-2(J) of the Zoning Ordinance, so enforcing the minimum rear yard setback would not deprive the property owner from any substantial rights enjoyed by other single family residential properties. See the Petitioner's responses to Standards for Variations.

5. Not Merely Special Privilege: The alleged hardship or difficulty is neither merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely the inability of the owner to make more money from the use of the subject lot.

Comment: Granting of this variation for density would, in fact, provide a special privilege for the property owner not available to other single family residential properties as it would give the petitioner preferential treatment over owners of other single family residences. Many other corner lots in Des Plaines of various sizes and shapes have designed room additions to accommodate a two-car attached garage within the letter of the code. As there are a variety of

November 9, 2021

Page 7

different design options and positions for the room addition on this site, granting a variation for this design, when plenty of other viable options are available, would provide the property owner with preferential treatment. Also, it could create a precedent for more set back reduction requests for single family residential properties that do not meet the standards for variations and may not have the available space or justifiable need for additions. See the Petitioner's responses to Standards for Variations.

- 6. Title And Plan Purposes: The variation would not result in a use or development of the subject lot that would be not in harmony with the general and specific purposes for which this title and the provision from which a variation is sought were enacted or the general purpose and intent of the comprehensive plan.**

Comment: On one hand, the project would allow re-investment into a single-family home, which the Zoning Ordinance and Comprehensive Plan want to encourage. Further, single-story ranch homes are a good product for many households. The key issue in staff's minds, however, is does the Ordinance for this lot offer a reasonable option for designing a ranch home without needing relief from the code? We believe so. Additionally, zoning requires a minimum of two off-street parking spaces, which are already accommodated on site and could still be provided within an attached garage inside the buildable area without a variation. The southern portion of the property provides the necessary space for the room addition while meeting or exceeding minimum setback requirements depending on design. See the Petitioner's responses to Standards for Variations.

- 7. No Other Remedy: There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot.**

Comment: First and foremost, shifting the proposed two-car attached garage to the east and widening the proposed breezeway would achieve the request of providing the two covered parking spaces and still allow for the addition of the bedroom, bathroom, and expanded kitchen areas. As noted earlier, there is more than 20 feet of space available to the south of the residence to shift a portion of or all of the proposed addition and accommodate the proposed improvements. A 720-square-foot garage can easily accommodate multiple vehicles, equipment storage, and work area depending on its design, so the proposed 768-square-foot garage could be reduced in width or depth to free up space on the west side of the property, meet the rear yard setback, and still accommodate the storage space sought. Additionally, zoning allows up to two accessory structures for each property up to 150 square feet in size. Thus, up to two, 150-square-foot sheds could be added on the property in the rear yard as accessory structures to accommodate additional storage as needed totaling 300 square feet in addition to the new garage space. Another alternative option includes a second-story addition, which could provide even more space than what is proposed here while still complying with all regulations. In essence, there are many other available and viable options aside from the variation to remedy the petitioner's posed concerns. Please see the Petitioner's responses to Standards for Variations.

- 8. Minimum Required: The requested variation is the minimum measure of relief necessary to alleviate the alleged hardship or difficulty presented by the strict application of this title.**

November 9, 2021
Page 8

Comment: The request for the setback reduction is not the minimum measure of relief to address the petitioner's concerns but rather the redesign of the proposed room addition to better utilize the available property and to meet the required codes. As there are multiple other viable alternatives to the variation, the minimum measure of relief standard has not been met in staff's view. See the Petitioner's responses to Standards for Variations.

PZB Procedure and Recommended Conditions: Under Section 12-3-6(F) of the Zoning Ordinance (Standard Variations), the PZB has the authority to approve, approve subject to conditions, or deny the request: A variation allowing a 17.3-foot rear yard setback from the west lot line to accommodate the proposed room addition for an existing single-family residence at 290 N. Eighth Avenue. The decision should be based on review of the information presented by the applicant and the standards and conditions met by Section 12-3-6(H) (Findings of Fact for Variations) as outlined in the Zoning Ordinance. If the PZB approves the request, staff recommends the following conditions.

Conditions of Approval:

1. No easements are affected or drainage concerns are created with the construction of the room addition.
2. The exterior building materials for the entire room addition shall consist of 100% face brick, natural stone, and/or adhered or anchored masonry veneer in conformance with Section 12-3-11 of the Zoning Ordinance.
3. The driveway is adjusted to fully service the new garage entrance in compliance with all applicable City of Des Plaines codes at the same time as the construction of the room addition.
4. All debris shall be removed from the property.
5. That all appropriate building permit documents and details are submitted as necessary for the single family residence. All permit documents shall be sealed and signed by a design professional licensed in the State of Illinois and must comply with all City of Des Plaines building codes.

Chairman Szabo asked if there were any questions or comments from the audience. There were no comments.

A motion was made by Board Member Catalano, seconded by Board Member Fowler, to approve a Standard Variation from Section 12-7-2(J) of the Des Plaines Zoning Ordinance, as amended, to install an addition to a single-family detached home that would be set back less than 25 feet from the rear property line, and the approval of any other such variations, waivers, and zoning relief as may be necessary at 290 N. Eighth Avenue, with the conditions stated in the staff report.

AYES: Catalano, Fowler, Veremis, Szabo

NAYES: None

ABSTAIN: None

*****MOTION CARRIED UNANIMOUSLY*****

2. Address: 1504 Miner Street

Case Number: 21-048-CU-V
Public Hearing

The petitioner is requesting a Conditional Use from Section 12-7-3(K) of the Des Plaines Zoning Ordinance, as amended, to allow a cannabis dispensary in the C-5 zoning district, as well as a variation from the Building Design Review standards of Section 12-3-11 related to window transparency, and the approval of any other such variations, waivers, and zoning relief as may be necessary.

PIN: 09-17-415-025-0000
Petitioner: 280E LLC, 1126 Main Street, Evanston, IL 60640
Owner: Metropolitan Square Plaza, LLC 6348 N. Milwaukee Avenue, PMB 125, Chicago, IL 60645

Chairman Szabo swore in Zachary Zises, Petitioner for the property located at 1504 Miner Street. Mr. Zises stated that the licenses for the cannabis dispensary have not been received yet; they are held by the State of Illinois due to a temporary restraining order which should be resolved in the next two to six months, which gives them time to apply for permits, etc.

The Petitioner stated that they have another business in Andersonville that opened in 2015; they are design focused; State law requires tinted windows; a security guard will be on premise; they will have cameras and a security system.

Chairman Szabo asked that the Staff Report entered into record. Director Carlisle provided a summary report.

Member Veremis asked if the Police Department supported this business; has there been any criminal activity at the Andersonville location. The Petitioner stated that during the unrest in 2020 a brick was thrown through a window and on another occasion three people entered the building and the alarm system scared them away.

Member Veremis stated that Des Plaines Theater goers are likely to purchase cannabis products. The Petitioner stated that consumption is not allowed in a public place or in the theater; product is allowed to be kept on their person.

Chairman Szabo stated that this is a sound operation, but in his opinion, not the ideal location. The Petitioner stated that the State of Illinois is restrictive and the City's Ordinance only allows a cannabis dispensary in certain locations. In addition, any building that a dispensary is located must not have a mortgage on it, which makes location even more restrictive.

Issue: The petitioner is requesting a conditional use under Section 12-7-3(K) of the Zoning Ordinance to allow an adult use (recreational) retail cannabis dispensary in the C-5 zoning district. The petitioner is also requesting variations from the window transparency rules of Section 12-3-11 (Building Design Review).

Address: 1504 Miner Street

Case 21-031-V
Case 21-048-CU

290 N. Eighth Avenue
1504 Miner Street

Variation
Conditional Use/Var

November 9, 2021
Page 10

Petitioner: 280E, LLC (dba Dispensary33, owned by Zachary Zises, et al)
Owner: Metropolitan Square Plaza, LLC

Case Number: 21-048-CU-V
Real Estate Index #: 09-17-415-025-0000

Ward: #1, Alderman Mark Lysakowski

Existing Zoning: C-5, Central Business District

Existing Land Use: Vacant; former Leona's restaurant

Surrounding Zoning: Northeast: C-5, Central Business District
Northwest: C-5, Central Business District
Southeast: C-5, Central Business District
Southwest: C-5, Central Business District

Surrounding Land Use: Northeast: Mixed-use residential/commercial building (Metropolitan Square)
Northwest: Restaurant (Sugar Bowl) and Metropolitan Square parking garage
Southeast: Martial arts academy (educational studio), various retail and service
Southwest: Public transportation station: Metra commuter rail and Pace bus

Street Information: Miner Street is classified as an arterial, and Metropolitan Way is a local street. The segment of Miner Street is under Illinois Department of Transportation (IDOT) jurisdiction and has an average traffic count of approximately 16,000 vehicles per day.

Comprehensive Plan: The Comprehensive Plan illustrates this site as "higher density urban mix with residential."

Background and Project: The petitioner is 280E, LLC, and would operate under the brand Dispensary33 (D33 Mgmt, LLC), which is owned by Bryan, Kristie, and Zachary Zises, as well as Paul Lee. They are proposing leasing 1504 Miner Street, a single-story brick building at the corner of Miner and Metropolitan Way, for an adult-use (recreational, non-medical) retail cannabis dispensary. The space has been vacant since late 2017, when the former Leona's restaurant closed. Legal retail sales of adult-use cannabis products began in Illinois on January 1, 2020, enacted by the state Cannabis Regulation and Tax Act of 2019. Dispensary33 was one of the first adult-use retailers to be open in Illinois at their location in the

November 9, 2021
Page 11

Andersonville neighborhood of Chicago. They have since opened a second location in the West Loop neighborhood of Chicago and are pursuing a location in Wicker Park concurrent to their application in Des Plaines.

The City of Des Plaines amended its Zoning Ordinance twice related to cannabis business establishments (an umbrella term that encompasses retail dispensaries and cannabis supply-chain businesses). The first amendments were in late 2019, and the second were in August 2021. Prior to August 2021, cannabis dispensaries were not possible in the C-5 Central Business District/downtown Des Plaines, but Ordinance Z-42-21 established them as a conditional use. All cannabis businesses establishments in Des Plaines are prohibited from locating within 500 feet of a pre-existing school, place of worship, or commercially zoned child care center. The subject property is more than 500 feet from the zoning lot lines of these types of uses. The nearest all are south of the railroad tracks: First United Methodist Church at 668 Graceland, St. Mary Catholic School and Parish at 801 Center Street and 794 Pearson Street, and the Central School building and playground/ballfields at 1526 E. Thacker Street (measuring from the north frontage on Prairie Avenue). All are approximately 900 feet from the subject property.

All cannabis business establishments are also subject to the Use Standards of Section 12-8-13 of the Zoning Ordinance. These address requirements and limitations related to signage, lighting, hours of operation (limited to 10 a.m. through 8 p.m.), prohibition of on-site consumption and delivery to consumers, seismic and sonic detectors, consent to odor inspection, and full compliance with state regulations, which may change from time to time.

As the petitioner states in their project narrative, Green & Foster, LLC, is one of the partners in the endeavor. This entity was notified that it was a state conditional license lottery winner¹ in summer 2021. Green & Foster is a “social equity²” candidate. The state gives priority to social equity candidates in lotteries for conditional licenses.

¹ All adult-use retail cannabis dispensaries must be licensed by the State of Illinois, which controls the overall number and distribution across the state of issued licenses. The Department of Financial and Professional Regulation (IDFPR) issues conditional licenses through a lottery system. Once entities have finalized a location and fulfilled all state operational and inspection requirements, the dispensary is given a full license to operate.

² Social Equity Applicant Criteria (2021). Illinois Department of Commerce and Economic Opportunity. Accessed 30

Retail cannabis is not only a growing sector of brick-and-mortar retail but also a source of a unique potential local revenue. The City can collect a three percent³ Municipal Cannabis Retailers' Occupation Tax on the gross retail sales of all adult-use cannabis. Further, the City is entitled to one percent home-rule retail sales tax, which leads to approximately four percent in total tax revenue on gross sales. In their project narrative, the petitioner projects by late 2022 the average sales for a dispensary in Illinois will be \$500,000 per month, or \$6 million per year. Sales volume varies based on location, size of store, and other factors. Research from various cannabis business sources reveals a range of national average annual sales between \$974⁴-\$1,773⁵ per square foot. Using the petitioner's estimate, the City could collect an estimated \$200,000-250,000 per year in combined cannabis and home-rule retail sales taxes from this single business. Des Plaines does not currently have a cannabis dispensary.

The subject property is 5,428 square feet. The site and floor plans indicate a total proposed building area of 4,180 square feet. It appears the dispensary proposes to remove the rear cooler (approximately 300 square feet) to better accommodate parking spaces adjacent to the alley. There is downstairs storage area planned to complement the upstairs sales, employee, and storage areas.

The parking requirement for cannabis dispensaries in Section 12-9-7 of the Zoning Ordinance has three different ratios based on components of the floor plan: one space for every 200 square feet of gross floor area with public access plus one space for every 250 square feet of gross floor area dedicated to office uses, plus one space for every 1,500 square feet of gross floor area dedicated to ancillary uses. As with all uses, the definition of "floor area" in Section 12-13-3 allows certain spaces such as restrooms, mechanical rooms, hallways, and up to 10 percent of storage areas to be excluded. Further, because the subject property is in the C-5 district, Section 12-7-3.H.6. allows the first 2,500 square feet to be exempt. Given the order of the floor plan components in the parking

October 2021 at <https://www2.illinois.gov/dceo/CannabisEquity/Pages/SocialEquityApplicantCriteria-.aspx>.

³ The state collects the tax on behalf of the municipality and then remits it back. The state retains a small amount as an administrative fee.

⁴ McVey, E. (2021). "Chart of the Week: Cannabis Retailers Excel in Key Revenue Metric." MJBizDaily. Accessed at <https://mjbizdaily.com/chart-of-the-week-cannabis-retailers-excel-in-key-revenue-metric/>.

⁵ Evans, M (2019, January 10). "This is how much the average dispensary makes a month." CannaSOS. Accessed at <https://cannasos.com/news/business/this-is-how-much-the-average-dispensary-makes-a-month>.

requirement – first public access, then office, then ancillary – the unexcluded space falls under “ancillary use” and is subject to a ratio of one space per 1,500 square feet. Therefore, the minimum parking requirement is two off-street spaces.

The petitioner is proposing three off-street spaces, all in the rear, which would comply. One of the spaces is reserved as an accessible space. In addition to the required off-street parking, there is immediately adjacent angle parking on the east side of Metropolitan Way, just west of the building. These 10 spaces, one of which is an accessible space, are limited to 90 minutes and are likely to be helpful in accommodating the use, although other businesses in the area also rely on these spaces. Regardless, an overall parking shortage is not anticipated, especially with the Metropolitan Square garage and additional on-street parking within a short walk of the subject property. Finally, the petitioner reasonably projects that given their location some customers will arrive via public transportation.

The petitioner will reserve one parking space for deliveries. The delivery plan in the project narrative specifies the frequency of daily deliveries (likely two to three times per day) in Ford Transit Connect or Sprinter vans. The state requires that deliveries be conducted by a licensed transporter and that a security guard be present.

The project narrative and the renderings of existing Dispensary33 locations indicate that façade alterations will be necessary on the Miner side. These alterations make the project subject to the Building Design Review requirements of Section 12-3-11. Specifically Sub-section D.1.a.1. requires “highly transparent, nonreflectance windows.” The petitioner cites a state requirement that dispensaries must maintain a window tint, which would make the storefront windows only partially instead of highly transparent. See the Project Narrative for an example from the Dispensary33 West Loop store. Therefore, the petitioner is seeking a variation from this requirement.

Alignment with the Comprehensive Plan

The following is a discussion of how the use aligns with the various goals and objectives of the 2019 Comprehensive Plan:

- **Future Land Use Plan:**

- This property is illustrated as higher density urban mix with residential. This category was used throughout downtown Des Plaines to signal support for adding residential units wherever a proposal was made to do so. While the petitioner’s proposal retains the building as single-use commercial, in broad terms, a retail cannabis dispensary is compatible with an “urban mix,” as envisioned for downtown.

- **Downtown Des Plaines:**

- Returning the vacant space to active use, with the attendant façade improvements, will improve the streetscape, as called for in this chapter.
- The chapter calls for creating “a restaurant cluster on Miner Street next to the Des Plaines Theatre.” On one hand, by approving this conditional use, the City would be allowing a former restaurant space to convert a non-restaurant space. On the other hand, it may not be practical for every space in the blocks adjacent to the theatre to be a restaurant. The additional foot traffic from a successful retail business such as a cannabis dispensary may, like additional theatre show-goers, support the existing restaurants and attract others to the strip.

Conditional Use Findings: Conditional Use requests are subject to the standards set forth in Section 12-3-4(E) of the Zoning Ordinance. In reviewing these standards, the PZB may use following comments, or may state their own, as rationale (findings of fact) for recommended approval or denial of the conditional use:

1. The proposed Conditional Use is in fact a Conditional Use established within the specific Zoning district involved:

Comment: As of August 2021, cannabis dispensary is now a conditional use in the C-5 district.

2. The proposed Conditional Use is in accordance with the objectives of the City’s Comprehensive Plan:

Comment: While not perfectly aligned, allowing the cannabis dispensary in the proposed location may support and complement the type of development (high-density urban mix) and uses (restaurant) desired broadly for the area.

3. The proposed Conditional Use is designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity:

Comment: Through their lighting, refuse, and security plan, as well as their “no loitering” policy and online pick-up program, the petitioner’s business is likely to mitigate the types of concerns neighbors may have about a nearby cannabis dispensary.

4. The proposed Conditional Use is not hazardous or disturbing to existing neighboring uses:

Comment: The dispensary seems to have designed a use that will not lead to outdoor queueing and loitering. On-site consumption is not permitted, and the many other Use Standards of Section 12-8-13 of the Zoning Ordinance should be effective at minimizing neighbor impacts.

November 9, 2021

Page 15

- 5. The proposed Conditional Use is to be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or, agencies responsible for establishing the Conditional Use shall provide adequately any such services:**

Comment: The use would not be enlarging the space through a large construction project; it is a simple commercial move-in. Public infrastructure is largely unaffected, and the existing parking in the vicinity is likely to be an adequate complement to the on-site parking spaces, which will meet the parking minimum requirement. Finally, the Des Plaines Police Department was offered the opportunity to comment and does not feel the use in this location would present a service demand on the department. Police did comment that the dispensary should, however often is necessary, maintain a list of its security personnel and share it with the department for the purposes of tracking personnel who are likely to be armed, which the security for the dispensary are likely to be. This comment is captured in recommended conditions.

- 6. The proposed Conditional Use does not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic well-being of the entire community:**

Comment: On the contrary, the use is likely to be an economic benefit for the community, creating new revenue while not requiring additional resources to provide services.

- 7. The proposed Conditional Use does not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke fumes, glare or odors:**

Comment: The proposed dispensary use is likely to comply with the Use Standards of Section 12-8-13 of the Zoning Ordinance, and these standards are designed to address all of the possible concerns listed in this standard.

- 8. The proposed Conditional Use provides vehicular access to the property designed so that it does not create an interference with traffic on surrounding public thoroughfares:**

Comment: The subject property is quite accessible, and both roadways and adjacent off and on-street parking have capacity to serve the proposed use as necessary.

- 9. The proposed Conditional Use does not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance:**

Comment: The use would restore a fairly attractive single-story building that is currently in minor disrepair because of its vacancy.

- 10. The proposed Conditional Use complies with all additional regulations in the Zoning Ordinance specific to the Conditional Use requested:**

Comment: As stated earlier, the dispensary must comply with the Use Standards of Section 12-8-13.

November 9, 2021
Page 16

Variation Findings: Variation requests are subject to the standards set forth in Section 12-3-6(H) of the Zoning Ordinance. In reviewing these standards, the PZB may use following comments, or may state their own, as rationale (findings of fact) for recommended approval or denial of the variation:

- 1. Hardship: No variation shall be granted pursuant to this subsection H unless the applicant shall establish that carrying out the strict letter of the provisions of this title would create a particular hardship or a practical difficulty.**

Comment: State regulations dictate the dispensary may not use the type of highly transparent window required by the rules.

- 2. Unique Physical Condition: The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.**

Comment: The subject property is along what is perhaps the most visible and important pedestrian-oriented corridor in Des Plaines: Miner Street, close to the theatre.

- 3. Not Self-Created: The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this title.**

Comment: The petitioner did not create the state regulation that they are subject to.

- 4. Denied Substantial Rights: The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other lots subject to the same provision.**

Comment: The Building Design Review rules and state cannabis dispensary requirements are inherently in conflict. Strict adherence to the Building Design Review rules would make the location of any dispensary very difficult.

- 5. Not Merely Special Privilege: The alleged hardship or difficulty is neither merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely the inability of the owner to make more money from the use of the subject lot.**

Comment: Other uses that are bound by requirements to tint their windows could approach the City with the same request and it would be reasonable.

- 6. Title and Plan Purposes: The variation would not result in a use or development of the subject lot that would be not in harmony with the general and specific purposes for which this title and**

November 9, 2021
Page 17

the provision from which a variation is sought were enacted or the general purpose and intent of the comprehensive plan.

Comment: Approval of this variation would lead to one storefront along the Miner Street corridor that has a non-traditional storefront window set. However, most storefronts will still be the highly transparent type that is desirable for the corridor. By requiring a variation in this case, the City is ensuring that the type of windows proposed by the petitioner are the exception not the rule.

- 7. No Other Remedy: There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot.**

Comment: To operate the petitioner will need to comply with state regulations and provide a degree of tint to the windows. They cannot avoid the state regulation.

- 8. Minimum Required: The requested variation is the minimum measure of relief necessary to alleviate the alleged hardship or difficulty presented by the strict application of this title.**

Comment: The petitioner is proposing partial transparency, so the windows used will have at least some (not all) of the desired effect and character of storefront windows in the Miner Street corridor.

PZB Procedure and Recommended Conditions: Under Section 12-3-4(D) (Procedure for Review and Decision for Conditional Uses) of the Zoning Ordinance, the PZB has the authority to recommend that the City Council approve, approve subject to conditions, or deny the above-mentioned conditional use and variation for a cannabis dispensary at 1504 Miner Street. City Council has final authority on the proposal. Consideration of the request should be based on a review of the information presented by the applicant and the standards above, as specified in Section 12-3-4(E) (Standards for Conditional Uses) of the Zoning Ordinance. If the PZB recommends and City Council ultimately approves the request, staff recommends the following conditions:

1. The petitioner shall submit to the Des Plaines Police Department, however often is necessary, an updated list of security personnel with verification of all necessary firearms training.
2. Dispensary windows shall be the type the petitioner used as an example in their application submittal. Detailed specifications on transparency shall be included with the building permit application.

Chairman Szabo asked if there were any questions or comments from the audience.

A motion was made by Board Member Catalano, seconded by Board Member Fowler, for to recommend approval of request for a Conditional Use from Section 12-7-3(K) of the Des Plaines Zoning Ordinance, as amended, to allow a cannabis dispensary in the C-5 zoning district, as well as a variation from the Building Design Review standards of Section 12-3-11 related to window transparency, and the approval of any other such variations, waivers, and zoning relief as may be necessary at 1504 Miner Street.

Case 21-031-V
Case 21-048-CU

290 N. Eighth Avenue
1504 Miner Street

Variation
Conditional Use/Var

November 9, 2021
Page 18

AYES: Catalano, Fowler, Veremis

NAYES: Szabo

ABSTAIN: None

*****MOTION CARRIED *****

ADJOURNMENT

The November 23, 2021 meeting will be canceled. The next scheduled Planning & Zoning Board meeting is Tuesday, December 14, 2021.

Chairman Szabo adjourned the meeting by voice vote at 8:27 p.m.

Sincerely,

Nancy Peterson, Recording Secretary

cc: City Officials, Aldermen, Zoning Board of Appeals, Petitioners