

**ESCANABA ZONING BOARD OF APPEALS
ROOM C101, CITY HALL, ESCANABA, MI
MONDAY, NOVEMBER 27, 2017**

A meeting of the Escanaba Zoning Board of Appeals was held on Monday, November 27, 2017, at 6:00 p.m. at the City Hall, 410 Ludington Street, Escanaba, MI 49829.

PRESENT: Chairman William DeHaan, Members: Mark Hannemann, Joe Klem and Dennis Renken, Code Official Blaine DeGrave, and Executive Assistant Lisa Glish

ALSO PRESENT: City Council Liason Ralph Blaiser, City Manager Patrick Jordan, Dan Block of Dynamic Design, and Dennis Evinson of Dagenais Enterprise

ABSENT: Vice-Chairperson Jon Liss and Member Brian Thorsen

Meeting called to order at 6:00 p.m. by Chairman William DeHaan

ROLL CALL

Executive Assistant Lisa Glish conducted the roll call.

APPROVAL/CORRECTION OF THE OCTOBER 18, 2017 BOARD OF APPEALS MINUTES

A motion was made by Member Renken, seconded by Member Hannemann, to approve the October 18, 2017 meeting minutes as submitted. Ayes were unanimous.

APPROVAL/ADJUSTMENTS TO THE NOVEMBER 27, 2017 BOARD OF APPEALS AGENDA

A motion was made by Member Klem, seconded by Member Renken, to approve the November 27, 2017 meeting agenda as submitted. Ayes were unanimous.

CONFLICT OF INTEREST DECLARATIONS

None.

UNFINISHED BUSINESS

None.

PUBLIC HEARING

1. Public Hearing – 301 North Lincoln Road – Dial Escanaba Mall 1 LP

Blaine DeGrave stated that a public hearing on a request form Dianl Escanaba Mall 1 LP, owner of 301 North Lincoln Road (a.k.a. Delta Plaza Mall), will take place for a Dimensional Variance to Section 1702 Parking Space Requirements, sub-section 1702.1 Required Number of the City of Escanaba's Zoning Ordinance. The applicant is requesting to reduce the amount of required parking spaces from the current 1/200 s.f. of usable floor area to 1/333 s.f. of usable floor area for a retail establishment.

Blaine then read the administration's position paper into record:

**CITY OF ESCANABA
REQUEST FOR REDUCTION OF PARKING SPACE REQUIREMENTS
CASE NO. BOA-112717-01**

REFERENCE: 301 North Lincoln Road (A.K.A. Delta Plaza Mall Property)

DATE: November 27, 2017

PROPERTY OWNER/APPLICANT ADDRESS:

Dial Escanaba Mall 1, LP and Dial Escanaba Outlots, LP
11506 Nicholas St.
Omaha, NE 68154

TYPE OF REQUEST:

Parking Variance: Request a ratio of 3.0 Stalls per 1,000 sf of building area. (1/333 s.f. of usable floor area)

LEGAL DESCRIPTION:

SEC 25 T39N R23W [5.7 AC] PRT OF BLKS 7, 8 & 9 OF THE CITY CENTER ADDITION NO. 3 & PRT OF SE1/4 OF NE1/4 BEG 502.33 FT N & 200 FT W OF E1/4 COR OF SEC 25 TH N 89D 58M W 420.89 FT, TH N 0D 05M 39S E 100.5 FT, TH N 89D 58M W 82.5 FT, TH S 0D 05M 39S W 14.5 FT, TH N 89D 58M W 1.22 FT, TH N 89D 58M W 229.8 FT, TH N 0D 05M 39S E 366.06 FT TO S ROW OF 3RD AVE N, TH N 84D 51M 12S E 740.89 FT ALG ROW, TH S 0D 39M W 503.28 FT TO POB. 5.76 ACRES.

CURRENT ZONING:

Commercial "E" District

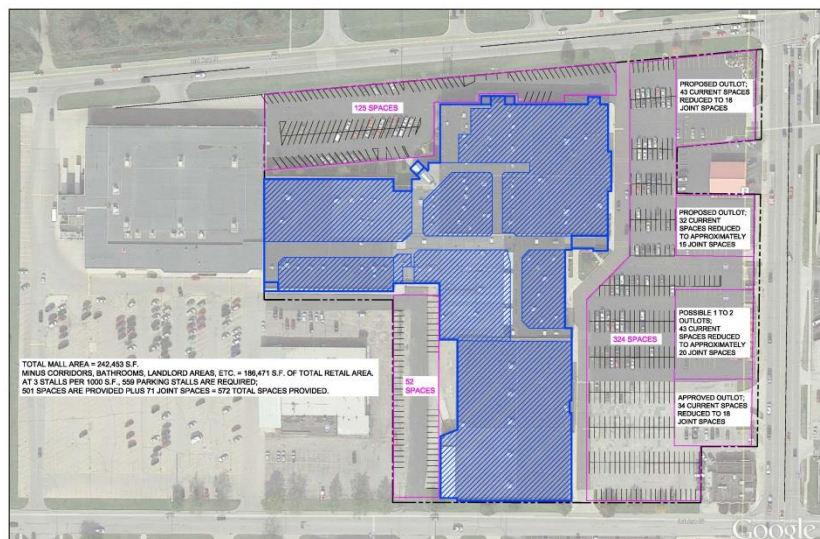
SUBJECT ORDINANCE:

Section 1702 Parking Space Requirements;

1702.1 Required Number.

The off-street parking spaces required for each use permitted by this code shall not be less than that found in Table 1702 Off-Street Parking Schedule

(See Attachment 1), provided that any fractional parking space be computed as a whole space. Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal parking facilities are provided elsewhere. Off-street parking existing at the effective date of this Ordinance, in connection with the operation of the building or use, shall not be reduced to an amount less than hereinafter required for a similar new building or new use.



DESCRIPTION OF PROPOSED PARKING REQUEST

Dial Escanaba Mall 1, LP and Dial Escanaba Outlots, LP is requesting a reduction in the Parking Space Requirements, currently at 1/200 sf of usable floor area for retail space to 1/333 sf (3.0 stalls per 1000 sf) of usable floor area.

PROPOSED FINDING OF FACTS:

- A. Dial Escanaba Mall 1, LP and Dial Escanaba Outlots, LP has applied for a variance before the Board of Appeals of the City of Escanaba.
- B. A proposed site plan showing the proposed parking spaces and outlots had been included with the application.
- C. All application Fees have been paid.

POWERS AND DUTIES OF THE BOARD OF APPEALS **(SECTION 305 OF THE ESCANABA ZONING ORDINANCE)**

305.4 Variance Review Criteria. The Board shall have the power to authorize specific variances or departures from this Zoning Code, if all of the basic conditions are satisfied, and if there are practical difficulties or necessary hardships in the way of carrying out the strict letter of this Zoning Code. A variance from the dimensional requirements of this zoning Code may only be granted if it is determined that all basic conditions have been satisfied and that there is a practical difficulty in carrying out the requirement.

305.5 BASIC CONDITIONS

- A. The spirit of the Zoning Code shall be observed, public safety secured and substantial justice done.
- B. There is no substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
- C. The difficulty or hardship relating to the property is not so general or recurrent in nature that the formulation of a general regulation for such conditions is preferable.
- D. The practical difficulties or unnecessary hardships are unique to the property under consideration and not to the general neighborhood, and shall apply only to property that is under the control of the applicant.
- E. It shall be necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
- F. There is a clear showing of an unnecessary hardship in that the property as a whole cannot reasonably be put to a use authorized by this Zoning Code.
- G. The alleged hardship or difficulty is not solely economic, and is based on the reasonable use of a particular parcel of land.
- H. It may be denied where the alleged practical difficulties or unnecessary hardships resulted from an act of the applicant, or a person in privy or concert with the applicant.

305.6. PRACTICAL DIFFICULTIES AND UNNECESSARY HARDSHIPS. In order to determine if there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Zoning Code the following shall apply;

305.6.1. DIMENSIONAL VARIANCE. A practical difficulty shall exist where there are **exceptional or extraordinary circumstances** or physical conditions, such as narrowness, shallowness, shape or topography of the property involved, that do not generally apply to other property or uses in the same zoning district.

305.7. OTHER POWERS: In specific cases, the Zoning Board of Appeals may vary or nullify the regulations herein established, in harmony with the general purpose and intent, as follows:

- A. Permit in any district, such modification of the requirements of these regulations as said Board may deem necessary to secure an appropriate development of a lot where adjacent to such lot on two (2) or more sides there are buildings that do not conform to these regulations.

305.8 DECISIONS. The Board shall not have the authority to alter or change this Ordinance or zoning map to allow a use which would be inconsistent with the requirements of this Ordinance. Provided, however, that in interpreting and applying the provisions of this Ordinance, the requirements shall be deemed to be the spirit and intent of the Ordinance and does not constitute the granting of a special privilege.

STAFF FINDINGS, COMMENTS AND RECOMMENDATIONS

Variance Review Criteria. The Board shall have the power to authorize specific variances or departures from this Zoning Code, if all of the basic conditions are satisfied, and if there are **practical difficulties** or necessary hardships in the way of carrying out the strict letter of this Zoning Code.

Dimensional Variance: A practical difficulty shall exist where there are **exceptional or extraordinary circumstances**.

Staff recognizes the difficulties or **exceptional or extraordinary circumstances** of the current vacancies of the mall and the trends for individual businesses along frontage roadways and avenues. Staff also recognizes the approval of the Planning Commission for the development of the two (2) outlots for Aspen Dental next to Hudson's and the retail building next to Saykly's along North Lincoln Road, therefore if the owners of the mall or their representative can verify enough parking spaces to accommodate the 1/333 ratio reduction of the amount of parking spaces for the mall property than staff would recommend approval of the reduction.

BACKUP INFORMATION:

1. Variance Application
2. All filing fees have been paid
3. Legal Property Description
4. Letter of Authorization
5. Assessor Property Card

6. 300' radius property owner/tenant notification letter
7. 300' radius labels

Dan Block from Dynamic Design explained that he was there representing Dial Escanaba Mall 1 LP. Mr. Block then went onto explain that Dial is requesting a reduction in parking spaces to be 572 spaces total for the mall property. He then explained that the amount of spaces is based on the calculation that 186,471 s.f. of the interior of the mall property is retail area, therefor by using the 1/333 s.f. request, that would result in requiring 559 parking spots total.

Chairperson DeHaan asked Dan Block to clarify that Dial will be requesting over the requirement if the reduction to 1/333 s.f. was granted. Dan Block stated that that was correct.

Ralph Blaiser, owner of 700 Lake Shore Drive, addressed the Board and stated that he feels the way retail sales are shifting at this time, a reduction in parking for the mostly vacant mall would be reasonable. He went onto state that retail stores don't have the vehicle traffic that there once was due to more patrons shopping online.

Dennis Evinson of Dagenais Enterprise addressed the Board and questioned why the parking area located behind the bowling area wasn't included in the parking space count. Dan Block stated that those spots behind the bowling alley are not owned by Dial, they are the property of the bowling alley.

City Manager Patrick Jordan addressed the Board and stated that he has been in the discussions with Dial concerning this project also, and he feels that the way retail organizations are ran now has changed dramatically; he went onto state that organizations are working on reinventing the way their businesses are ran. City Manager Jordan then stated that the City should not hold itself to an obsolete rule for a mostly vacant mall structure when there is potential for new businesses for that area.

Member Renken made comment that many paper companies are now converting to making cardboard due to the uprising in online sales and the need for cardboard shipping boxes.

A motion was made by Member Renken, seconded by Member Klem to grant the Dimensional Variance to Dial Escanaba Mall 1 LP to allow the reduction in required parking spaces from 1/200 s.f. of usable floor area to 1/333 s.f. of usable floor area for the retail property located at 301 North Lincoln Road.

A rollcall vote was called for by Chairperson DeHaan, votes were as follows:

Chairperson DeHaan – Aye

Member Klem – Aye

Member Renken – Aye

Member Hannemann - Aye

Chairperson DeHaan stated that the motion passed during rollcall vote with unanimous Aye votes and that the variance is granted.

ADJOURNMENT

A motion was made by Member Renken, seconded by Member Kelm, to adjourn the meeting. Ayes were unanimous.

The meeting adjourned at 6:25 p.m.

William DeHaan, Chairperson
Escanaba Zoning Board of Appeals

Blaine DeGrave, Ex-Officio
City of Escanaba