

**West Washington Park Neighborhood Association Zoning Committee**  
**Tuesday, Nov 27 and Thursday, Nov 15, 2007,**  
**216 S Grant St, 7:00 pm**

**Committee Members present:** Anne Davis, Chair; David Callaghan, Gertie Grant, Barry Sarver, Jim Jones, Terri Ficke, Charlotte Winzenburg, Fred Hammer

**Committee Members absent:** Gloria LeFree.

**Guests:** John Moran, Mebratu Teklemaimanot and Yeshe Gebremeskd (for 939 E Cedar), Peg Johnston (259 S Corona), David Hite (165 S Ogden), Gillian Egan (1003 E Cedar), Eric Paddock (9 S Downing), Jessica McMillan (229 S Ogden), Bill Hamilton (259 S Emerson).

**Approval of Amended Minutes of Sept 26<sup>th</sup> meeting:** The Following paragraph was approved 4-0-4 (absent from that part of meeting) to be inserted in the minutes of that meeting: **“Discussion of Zoning Code Task Force 7/20/07 draft and input from 5 meetings in neighborhoods:** Very limited discussion due to time limitations but questions were raised about how proposals address R-3 and overlay districts, how new code will be implemented and what role neighborhood folks will have in decisions. The committee members remaining (Anne Davis, Gloria LeFree, Gertie Grant, Jim Jones and David Callaghan (who does not have email), agree that this issue is very important, that the Zoning Committee should devote more time to this in the future and that, at this point, we should move forward with comments provided by the Land Use and Transportation Committee and the breakout session of the WWPNA Board, and that a draft of the WWPNA position paper will be provided to committee members before being submitted to the City.”

Sept 26 Amended Minutes were then approved 8-0-0 with above paragraph incorporated into the minutes.

**Minutes of Oct 30<sup>th</sup> meeting:** Approved 8-0-0

### **Unfinished business:**

**Speer and Washington: Rezoning from B-1/P-1 to R-3 with OD8. (Application #20071-00102)** See minutes from Sept 26 for details of rezoning: Passed by Planning Board unanimously Oct 17, '07. City web page shows PH (First Reading?) at City Council 2/04/08.

**482 S Ogden St, Case No 155-07: Hearing Nov 13:** Applicants: Donald and Lisa Bramer, Phone 303-242-9962;

**Issue:** Appeal of a denial of a permit to erect a front porch addition 7.1 feet with cover 7.9 feet into the 30.9 foot average setback in an R-2 zone. **BOA Action:** Decision to grant variance withheld pending receipt of proper power of attorney from Lisa Bramer to Donald Bramer who appeared at the hearing.

**1175 S Ogden St, Case No 166-07: Hearing date: Nov 27** Appeal of an order to discontinue maintaining 4 unrelated persons (2 permitted) in an R-1 zone. Applicant: Matthew Henderson. Possible remedy: Time 6 months.

**BOA action:** Order to discontinue upheld but owner given until Jan 1, 2008 to comply.

**333 E Alameda aka 273-275 S Logan St, Case No 167-07: Hearing date: Nov 20, 2007,** Applicants: Norman and Patricia Crandell. Issue: Appeal of a denial of a permit to erect a walled and covered porch addition 5 feet into the required 10 foot rear setback space in a B-2 zone. Remedies: variance

**BOA Action:** Variance granted according to plans and elevations submitted to the Board as part of Exhibit 9 and the testimony at the hearing, with the condition that any light installed on the alley for the dumpsters is to be equipped with a motion detector and screened from the most affected residential properties.

**65-85 Broadway, 38-44 W 1<sup>st</sup> Av (Big Lots): Application # 071-00039 to rezone from B-4 and R-2A to**

**MS-2:** City web page shows set for Blueprint Denver 12/26/07 and PH (First reading?) at Council Jan 22<sup>nd</sup>.

**Neighborhood meeting Thurs., Nov 15<sup>th</sup> at 216 S Grant to discuss Main Street Zoning in general and this application in particular. Minutes of that meeting are incorporated herein:**

Fliers for this meeting (with info on this meeting and the Nov 14<sup>th</sup> Alameda Station meeting) were distributed (partly by Jim, Gloria and Gertie) on Lincoln from 1-25 to 5<sup>th</sup>, Sherman from I-25 to 4<sup>th</sup> Av and Grant from Bayaud to 3<sup>rd</sup> Av. In addition to Zoning Committee members Fred Hammer, Gloria LeFree, Charlotte Winzenburg, David Callaghan, Anne Davis, Jim Jones, Gertie Grant and Barry Sarver, and Tony Gengaro representing Big Lots, 3 neighbors attended: Jim Bergstedt (60 Sherman), John Doherty (736 S Logan), and Tom Parson (157 S Logan). Council Rep Chris Nevitt came also.

Anne Davis chaired the meeting and distributed printed materials: 1. The building mass possible under current Big Lots (B-4 and R-2A) and under the proposed MS-2 zoning; and 2. a 11x17” chart of the parking and building heights, setbacks and other requirements under MS-1, MS-2 and MS-3. Gertie Grant has extra copies of these materials.

The primary differences between B-4 and MS zoning generally are that MS requires (among other things) that:

1. Newly constructed **buildings front and have entrances along the main street with parking in the rear** (prohibiting strip malls with parking in front);

2. Include **windows along the building front**;
  3. **parking** does not need to be on the same zone lot (unlike B-4) and generally requires 1 parking space for 500 sq ft of nonresidential use and 1 parking space per unit of market-rate housing with fewer for “affordable” and senior housing. B-4 parking ratios are generally higher but depend on type of commercial use and require 1.5 spaces per residential unit, but the existing buildings on Broadway pre-date the current zoning code and parking deficiencies are grandparented in;
  4. **building height limits**: MS-1 max 38 ft (approx 3 stories); MS-2 max 65 ft (approx 5 stories), min 24 ft; and MS-3 max 100 ft (approximately 10 stories) min 24 ft. When immediately contiguous to residential zones, upper story setbacks are required in MS 2 and MS-3 dependant on height of residential buildings.
  5. **Uses** are generally those allowed in business zones,: in MS-2 the uses are basically those allowed in B-4, and non conforming distances between adult entertainment and liquor stores will be grandparented in.
- Tony Gengaro said that the perception of lack of parking on Broadway now is a problem when in fact there is enough. It was suggested that people who live elsewhere but drive on Broadway and aren’t familiar with the neighborhood are afraid of crime in the neighborhood may not be willing to pull on to side streets to parks or park in back.
- The absence of any restrictions on outdoor patios near residential zones to control amplified sound and hours of operation was pointed out as a significant issue for residents near the Colfax MS zones.
- Motion passed unanimously by those present, including 8 of 9 members of the Zoning Committee to recommend to the WWPNA Board that WWPNA support the rezoning application at 65-85 Broadway, 38-44 W 1<sup>st</sup> Av from B-4 and R-2-A to MS-2 and to continue the discussion of the bigger picture of what is MS Zoning, what it means to development in our neighborhood and its impact on nearby residents.**

**L-1164 (CB 477) Air cooling units in side setbacks and L-1166 (CB 598) Evaporative coolers in side setbacks:** CB 477 defeated and CB 598 (Council Rep Nevitt’s ordinance) passed by City Council Nov 26, 2007.

## **New Business:**

**935 – 939 East Cedar Ave (aka 175 – 183 S Ogden St); Hearing date Dec 4, 2007, 10:50 AM, Webb Municipal Building, 201 W Colfax Ave, Dept 2.H.14.**

**Issue: Appeal of a denial of a permit to expand the floor area of a nonconforming use (liquor store) into the existing retail area in an R-3-X zone. Possible remedies:** Non-conforming use variance (59-54 (2) b.)

**Applicant’s statement:** The hardship exists because of no space to store inventory of malt, vinous, and spiritous liquor. I need to cut through the wall to 935 E Cedar (same common wall). The business has specialized clientele and neighborhood customers. This is also for safety reasons. This will not alter a load bearing wall. Signed: John F Telea, owner.

Fliers distributed on 2 blocks north and south of location on Emerson, Ogden and Corona.

**Meeting:** Charlotte Winzenburg clarified that this is a two stage process: The Zoning BOA hearing deals with a nonconforming use in a nonconforming business structure in an R-3-X zone and the issue now is expanding the storage (not sales) space of the non-conforming use (liquor store). If the variance is granted, then Michael will apply to Dept of Excise and Licenses for a liquor license modification where the distinction between storage and retail sales areas will be specified. (15 day comment period.) Any further changes will go through the same 2 step process.

Mebratu Teklemaimanot (aka Michael), tenant and owner of liquor license, and his wife, Yeshe Gebremeskd, attended meeting as did 6 neighbors. Michael said he has been there 10 years with no violations of the liquor code because he is careful about getting IDs and he won’t sell to drunks. He needs the extra 800-900 feet next door (proposal is to go through existing wall) for storage of beer primarily because the stairway to the basement where he currently stores beer and other liquors are not safe and are difficult for the beer delivery people to navigate and because he needs to be able to buy larger quantities of beer to get better prices to pass on to his customers. His current lease expires in about a year with a 3 year renewal option, and Michael said he has a good relationship with the building owner. The space next door is now vacant, not well kept up and has had irregular tenants. The landlord, an elderly man who used to run the liquor store and who owns the whole complex and other property in the block, almost doubled the rent for the previous tenant. Michael said he has removed ad signs at neighbor’s request and his wife said she doesn’t want signs to attract drive-by traffic for safety reasons. They want to improve the appearance of the building, and to serve the community and neighbors, particularly the walk-in traffic. Neighbors, both at the meeting and in phone calls to Charlotte Winzenburg, like Michael and want to keep him there but ad signs and late night traffic and radio noise from customers are problems.

After Michael and his wife left the meeting, immediate neighbors voiced concerns about what would happen if the landlord, who is a businessman and doesn’t take very good care of his properties, raised the rent and/or the liquor license transferred to someone else. Neighbors complained about late night noise from customers’ car radios, ad signs not being removed even after requests, vagrants waiting for the store to open in the morning, parking issues and liquor bottle litter near the store, but they also don’t want to put Michael out of business. Other neighbors pointed out that Michael is only asking for storage, not sales, space and he needs the extra storage space to stay in business, that the beer bottle litter and noise may be from customers of the Ogden Street South tavern/restaurant at the other end of the block, that this liquor licensed store was here when people bought their houses, that residents often don’t provide for their own off-street parking, and that this liquor store with this operator is better than what might replace it, and if this store leaves, the property may deteriorate even more.

VOTE: Nearby neighbors at meeting split 3 to support and 3 to oppose; phone calls to Charlotte were 3 in support (the other 1-2 support calls were from meeting attendees), 1 undecided; 1 letter in support given to Anne Davis.

The question was raised and unanswered whether or not this variance could go just with this tenant, not the owner of the property who is the applicant/appellant.

Barry Sarver will speak to Michael about removing any ad signs and remind him to make sure the lawyer has a power of attorney from the owner.

**MOTION passed 8-0-0 to recommend to the WWPNA Board for an email vote that WWPNA support the variance to expand the floor area of this nonconforming use for storage of malt, vinous, and spiritous liquor (not sales) because any further changes will require further opportunity for public input; this variance is only for storage space, not sales; the space next door is vacant and hard to rent; stairs to the current storage space are difficult and possibly unsafe for beer delivery; and neighbors are supportive of this current operator.**

**“AFTERWORDS” (after the zoning meeting) from Char Winzenburg: If the WWPNA Board votes by email to support this variance, at the meeting next Tues evening, the Board may want to consider a position (support?) on the expansion/modification of the liquor license which will come up if the variance is granted on Dec 4 earlier in the day before the Board meeting. The time to respond to the license modification request is only 15 days.**

**1100 S Pearl (aka 630 E Mississippi Av): Application for Biennial Renewal of Permit for Residential Care Use, Large Special Care Home:** Application by the Colorado Coalition for the Homeless to renew permit for housing of up to 12 women. Comments regarding the operation of this facility and its willingness to interact with the neighborhood when necessary must be submitted to the Zoning Administrator, 210 W Colfax Ave, Dept 205, Denver, CO 80202 no later than December 20, 2007. Anne Davis to check on any police reports concerning this address. Otherwise, no action will be taken.

**Purview of the Zoning Committee:** Discussion of overlap of the WWPNA Zoning and Land Use/Transportation Committees concluded that there was considerable overlap and perhaps the committees should be consolidated or the responsibilities of each committee should be re-examined. The committee recommended that the WWPNA Board take up this item at its next meeting at least to open the conversation.

#### **Other Business:**

**INC ZAP Nov 17th meeting:** Gertie, Charlotte W and Charlie B attended. Issues discussed at INC ZAP: 1. Air conditioning vs evap cooler ordinances; 2. New site for Colo State Historical Museum: civic center park versus old permit building; 3. City's strategies to deal with foreclosures (particularly impacts on neighborhoods) with Susan Foley, newly appointed foreclosure point person, and Christopher Smith of the Denver Office of Economic Development. 4. Discussion of major proposed music festival in City Park in July 2008. Will this be a precedent for charging admission to other special events in city parks?

**The Dec Zoning Committee meeting will be cancelled unless there is urgent business.**

Respectfully submitted, Gertie Grant, Secretary