



City of Milwaukee

200 E. Wells Street
Milwaukee, Wisconsin
53202

Meeting Minutes ZONING CODE TECHNICAL COMMITTEE

Teodros Medhin, Chair

Stuart Mukamal, Ed Richardson, Ronald Roberts

Staff Assistant, Linda Elmer, 286-2232, lelmer@milwaukee.gov; File Specialist Charlotte Rodriguez, 286-8797, crodri@milwaukee.gov

Wednesday, April 22, 2009

2:00 PM

Room 301-B, City Hall

Meeting convened: 2:07 P.M.

Also present:

Ald. Jim Bohl

Jeff Osterman - Legislative Reference Bureau

Kari Egerstrom - Board of Zoning Appeals

Al Franitza - Dept. of City Development

Michael Loughran - Dept. of Public Works

Present 4 - Medhin, Mukamal, Richardson and Roberts

1. **081661**

A substitute ordinance relating to off-street parking requirements for day care centers.

Sponsors: Ald. Bohl

Ald. Bohl said the ordinance is intended control large day cares that go into areas with limited off-street parking. Although most providers say that 90-95% of students will come via vans, it never seems to be true. Increased parking and illegal parking occurs with many facilities now open later and later at night, with resulting traffic noises. With facilities operating in commercial areas, neighbors are not disturbed, but with those larger facilities in residential neighborhoods, neighbors are often disturbed late at night.

Atty. Mukamal has some legal concerns about this file. Parking requirements for day care centers are not inherently illegal, but this file has a problem in two respects. This legislation, in part, is pre-empted by state law, and day care centers are licensed by the state, not the city. Mr. Franitza has an interpretation of the state law which Atty. Mukamal feels the city might be in conflict with. and he will review it. If the parking-space requirements are too high they may result in all new day cares basically being banned by the city, which is illegal as these businesses are legal businesses recognized by the state. Under its police powers, the city may be able to regulate the problems caused by these businesses, but a record must be created of these problems. Atty. Mukamal supported excluding family day care centers when the homeowner does not live there from this ordinance, but Mr. Richardson had some concerns about this.

Ms. Egerstrom noted that 90% of the day care applications received by the Board of Zoning Appeals (BOZA) would be denied as they are unable to meet the parking requirements. The Board recommended rewriting this file so that a special use is required for the day care operation and a dimensional variance is required for parking. A dimensional variance would cost an additional \$325 and Ms. Egerstrom feels that this would be a financial hardship for many new operators. Ms. Egerstrom stated that the public will complain if operating plans are not met, while Mr. Roberts said that more transparency needs to be part of the operating plans.

Mr. Loughran thought that specific problem locations should be addressed rather than creation of a blanket ordinance. He noted that day cares are examined for parking locations when operating plans are submitted. If parking requirements noted in the operating plans aren't met, the special use permit can be revoked at any time. Ms. Egerstrom also noted that BOZA could encourage operators to use van service while Mr. Loughran noted that requiring one parking space per employee discourages the use of mass transit to get to work.

Mr. Richardson noted that the Dept. of City Development is trying to discourage the laying of asphalt, which this file would require. Mr. Richardson would suggest deleting the language related to requirements if enrollment is unknown as enrollment is always noted on the plan of operation and the operator must come back in if those numbers change. He would also encourage adding in a grandfather clause with a specific date. Mr. Richardson was also concerned in that no "urban off-set parking uses" were taken into account (such as on-street parking) when calculating required parking spaces as are taken into account for all other uses. He feels that the parking requirements would have to be totally reworked as proposed. He also didn't know if adult day cares were included as part of this legislation. Atty. Mukamal noted that they should be specifically excluded, if they were not to be included.

Ald. Bohl thanked the Committee for its review.

Mr. Osterman will draft a proposed substitute to this file to meet the Committee's concerns.

Mr. Roberts moved that this ordinance does not meet all three criteria of this Committee, seconded by Mr. Richardson. There were no objections.

Meeting adjourned: 3:03 P.M.

*Linda M. Elmer
Staff Assistant*