

SPECIAL BOARD OF ZONING APPEALS MEETING

MAY 25, 2017

The meeting was called to order at 5:31 p.m. by Chairman Craig Pickerel. Board members present were Greg Bade, Jason Decker, Niki Decker, Craig Pickerel and Rob Vela (5). Also present were Karlene Henderson, Law Director, Brody Walters, Planning and Zoning Administrator and Mark Easterling, Deputy Planning and Zoning Administrator.

Mr. Pickerel administered an oath to those that would be speaking at the meeting.

The purpose of the special meeting was to consider Application 17-17 that was tabled at the May 8, 2017 meeting.

Mr. Bade moved to untable Application 17-17. The motion was seconded by Mr. Decker and was unanimously approved.

APPLICATION 17-17 - Jerry Abair is requesting one zoning variance to permit parking relief. The properties are identified as parcel numbers Q61-000-901206003000, Q61-000-901206004001, Q61-000-901206005001 (located along Water Street), and are zoned "C-1" (Neighborhood Commercial).

NOTE: *Chapter 1250.02(r) General Parking Requirements:* The number of off-street parking spaces required for the uses located in and permitted in C-1, C-3, C-4 and INS districts may be reduced up to thirty-three percent (33%) of the total required, provided that the following conditions are met:

- (1) The number of off-street parking spaces required for the use or uses exceed fifteen (15).
- (2) The applicant shall submit an acceptable site plan showing that an adequate reserve of land is set aside for additional parking spaces, so that the total depicted on the plan is adequate to meet the requirements under 1250.03 of this Chapter. The plan shall indicate the reserve area so that all dimensional requirements as to spaces, aisles and other applicable requirements of this Chapter can be met. The reserve area shall not be used for water retention, for required greenbelts or as the location for replacement trees or other deciduous or evergreen trees required by this Chapter. The landscape plan submitted for the site shall include a plan for the reserve area.
- (3) The City has determined that the applicant has submitted substantial evidence showing that the parking needs of the specific occupant will be less than would be required by this Chapter.
- (4) The property owner shall execute an agreement prepared by the City Law Director requiring the construction of the additional spaces within one hundred and eighty (180) days of notification that the City has determined a need exists for such spaces. The agreement shall run with the land, be

- (5) A permit for change of occupancy shall not be issued until the City has reevaluated the need for parking by the new occupant relative to the number of spaces required by this Chapter.

NOTE: *Chapter 1250.03(b)(g) Private clubs or lodge halls: One (1) for each seventy-five (75) square feet of usable floor area.*

NOTE: *Chapter 1215.02(81) Floor Area, Usable:* For the purposes of computing off-street parking requirements, that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area that is used or intended to be used principally for the storage or processing of merchandise, for hallways or for utilities or sanitary facilities, shall be excluded from this computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal area of the several floors of the building, measured from the exterior faces of the exterior walls.

1. The applicant is requesting a zoning variance to reduce the required amount of parking on the northern properties which would reduce the required parking from 11 spaces to 0 spaces.

Recommendation:

1. The Deputy Administrator recommends denial of the variance. With the anticipated traffic of membership during events, this building would demonstrate a need for parking spaces. The applicant is requesting that parking be reduced by one hundred (100) percent (21 spaces), while the previous variance granted would reduce the parking requirement to 11 (50%).

Mr. Easterling reviewed Application 17-17. Mr. Abair said that Mr. Bade attended the Open House regarding the multi-use path. He asked if he found out about Water Street being vacated. Mr. Walters said that the multi-use path will not preclude vehicles. There will be vehicular access for public service and safety vehicles and for property owners that will need to access their properties. Mr. Vela asked if the road will be signed only for emergency traffic or would he be able to drive down there. Ms. Henderson said he would not be able to. Mr. Walters said that bollards were removed as part of the contract for the multi-use path. Mr. Bade clarified that if they require the Boat Club to put in parking, the only access will be a ten foot wide path. Mr. Walters read that the Board of Zoning Appeals has authority per Chapter 1275.02(b)(5) which reads: To vary the parking requirements applicable, whenever it has been clearly demonstrated that the providing of full parking facilities is unnecessary or where such a requirement would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience. Mr. Vela said that in his opinion ten foot access constitutes an unreasonable hardship. Mr. Bade asked if there is any way it can be redesigned for a 20' access. Mr. Walters said that when work on the multi-use path starts it will start west of the Boat Club and go west to Riverside Park. If parking is required for the Boat Club, the City has committed to providing access to the parking. Ms. Decker asked if the plan is the same

whether they have parking or not. Mr. Abair said that they have not had parking for 80 years and City Council has allotted \$435,000 for parking in that area. Mr. Bade pointed out that the Boat Club was a renter for 80 years of a City owned building, and the City had parking. Now they are going to own their own building and by Code they need parking. He said that the Boat Club is assuming that they have the right to the public parking but those spots will be more in demand now because of the park. Mr. Walters added that City Council budgeted money for parking improvements, but there is no guarantee that they will release that money. Mr. Pickerel asked if the multi-use path will be modified if parking is required. Mr. Walters said that he can't say it will or will not be modified, but the City will provide access according to law. Kate MacPherson, architect, said that requiring parking would be a hardship because it is quite difficult to provide parking and they would be backing up onto the access drive. There was a brief discussion regarding why the Boat Club did not seek rezoning to C2 zoning which would not have required parking. Mr. Abair said they opted not to rezone based on input from neighbors and City Council that they were opposed. Mr. Walters stated that City Council never weighed in on that issue. Mr. Decker said that from a safety standpoint it is not good to have vehicles on the multi-use path. He said that they have already granted a variance from 21 parking spaces down to 11, and he does not feel another 11 parking spaces will overwhelm downtown parking. He added that if the City has to widen the multi-use path to provide better access that means spending more tax dollars. Mr. Decker said that if the Boat Club were asking for parking spaces, they'd say no, so for all those reasons he has no problem with going from 21 to 11 to 0. Mr. Pickerel clarified that with both sides, it is actually closer to 43 parking spaces.

Rachel Wesley, 563 E. Indiana Avenue, said that the City is receiving federal grant money through TMACOG and this path is to start at Hood Park and she wonders how the plan can be altered without funds going back to the government. She said that the original plan did not show co-mingling of pedestrians and cars and safety was one of the main issues. Mr. Walters said that the path is being done in chunks because the funds have become available earlier than expected, and the intent to show connectivity with the destinations mentioned.

Ms. Henderson reminded the Board that the multi-use path should not be part of this decision and the City has said that access will be provided if parking is required.

Mr. Decker moved to approve Application 17-17. Mr. Vela seconded. Ayes: J. Decker, N. Decker, Pickerel, Vela (4). Nays: Bade (1).

There being no further business, the meeting adjourned at 6:29 p.m.

Respectfully submitted,

Mary Jo Sutton