

**TOWN OF ELKTON
BOARD OF ZONING APPEALS
DECEMBER 21, 2017
MINUTES**

Present: Robert Olewine; Dave Mehelas; Heather Mahaffey; Richard Czernik, Lisa M. Hamilton Blackson, Esq., Legal Counsel, Chip Bromwell, Director, Building & Zoning

Absent: Shirley Hicks; Dawn Schwartz

Mr. Olewine called the meeting to order at 7:00 p.m.

ACTION: Motion was made by Ms. Mahaffey to approve the minutes from the October 19, 2017 meeting. The motion was seconded by Mr. Czernik and unanimously approved.

CASE # 1516 – REQUEST OF AUDIO UNLIMITED, INC., 249 A SOUTH BRIDGE STREET FOR A VARIANCE TO EXCEED THE TOTAL ALLOWABLE SQUARE FOOTAGE FOR SIGNAGE BY THIRTY EIGHT (38) SQUARE FEET. THIS ACTION CONCERNS PROPERTY LOCATED AT 249 A SOUTH BRIDGE STREET, ELKTON, MARYLAND, TAX MAP 315, PARCEL 2222, ZONED C-2 (HIGHWAY COMMERCIAL)

Mr. Patrick J. Ulrich was sworn in to address this request. Mr. Ulrich informed the Board that the sign for Audio Unlimited for which the variance is being requested has already been placed on the property. He noted this sign replaced the previous tenant sign and has been up for about six (6) months.

Mr. Bromwell pointed out that the property is narrow and due to the number of tenants in the building they have gone over the allowable amount of signage for the overall property. Mr. Ulrich stated that they were simply refacing an existing sign.

Mr. Olewine entertained questions from the Board and the audience. There were no questions.

MOTION: Motion was made by Mr. Mehelas to approve the variance for Audio Unlimited to exceed the total allowable square footage for signage by thirty eight (38) square feet. The motion was seconded by Ms. Mahaffey and unanimously approved.

CASE # 1514 – REQUEST OF PATRICK J. ULRICH, R.E., 251 S. BRIDGE STREET FOR A VARIANCE TO EXCEED THE TOTAL ALLOWABLE SQUARE FOOTAGE FOR SIGNAGE BY THIRTY SIX (36) SQUARE FEET. THIS ACTION CONCERNS PROPERTY LOCATED AT 251 S. BRIDGE STREET, ELKTON, MARYLAND, TAX MAP 315, PARCEL 2222, ZONED C-2 (HIGHWAY COMMERCIAL)

Mr. Ulrich was sworn in to address this request. He stated he has a property management company in a small space at the rear of this building. The sign, which will not be lighted, directs customers to the office. It will be placed below the other signs on the existing pylon sign located at the front of the property. He noted that some customers are having difficulty locating his office and therefore he is requesting the variance to place the sign in order to assist those customers coming to his office. He noted the sign is approximately 3' x 6'.

Additionally, the variance is needed due to the fact the property is narrow and they are over the allowable amount of sign square footage for the property.

Mr. Olewine entertained additional questions from the Board and questions from the audience. There were no questions.

MOTION: Motion was made by Mr. Mehelas to approve the variance for 251 S. Bridge Street to exceed the allowable square footage for signage by thirty six (36) square feet. The motion was seconded by Mr. Czernik and unanimously approved.

CASE # 1517 – REQUEST OF RACKSON CAPITAL CIRCLE, LLC REPRESENTING BURGER KING FOR A VARIANCE FOR ONE (1) ADDITIONAL WALL SIGN. THIS ACTION CONCERNS PROPERTY LOCATED AT 100 WEST PULASKI HIGHWAY, ELKTON, MARYLAND, TAX MAP 315, PARCEL 2210, ZONED C-2 (HIGHWAY COMMERCIAL)

A representative for Rackson Capital Circle, LLC did not appear to address this submittal. The submittal is considered withdrawn.

CASE # 1518 – REQUEST OF WALMART SUPERCENTER FOR A SPECIAL EXCEPTION FOR PLACEMENT OF TEMPORARY STORAGE TRAILERS FOR HOLIDAY MERCHANDISE. THIS ACTION CONCERNS PROPERTY LOCATED AT 1000 EAST PULASKI HIGHWAY, ELKTON, MARYLAND, TAX MAP 316, PARCEL 0493, ZONED C-2 (HIGHWAY COMMERCIAL)

Mr. Lloyd Rabuck, Jr. and Mr. Mike Marine, II were sworn in to address this submittal. There was discussion regarding the location of the storage trailers. Mr. Rabuck noted that the smaller ‘Rat Pack’ trailers are not the best for their use and they do not intend to use these twelve foot trailers in the future. He mentioned that Walmart does not have a great deal of storage within the building and therefore the trailers are necessary during the holidays due to the increased volume of merchandise. He pointed out that the site plan shows the location of the existing storage trailers.

Mr. Mehelas inquired as to where they will be located in the future. Mr. Rabuck stated they will not be located in the front of the building but on the side and rear and the property in the future.

Ms. Mahaffey questioned the number of trailers. Mr. Rabuck stated next year they will probably have 26-27 trailers.

Mr. Olewine entertained additional questions from the Board and questions or comment from the audience.

Mr. Don Horton questioned whether the Board was going to fix the number of trailers on Walmart’s property and where they will be located. Mr. Olewine stated he needed to speak either for or against the variance request. He stated he would then speak against the request due to the number and location of the existing trailers.

Mr. Olewine read the recommendation from the Planning Commission.

MOTION: Motion was made by Mr. Mehelas to approve the special exception for placement of up to twenty seven (27) storage trailers between September and February for the next three (3) years. The motion was seconded by Ms. Mahaffey and unanimously approved.

CASE # 1515 – REQUEST OF JAY C. EMREY, III REPRESENTING RT. 40 VENTURE, LLC FOR A SPECIAL EXCEPTION FOR PLACEMENT OF UP TO FOUR (4) STORAGE TRAILERS FOR MORE THAN SIX (6) MONTHS FOR USE BY TIM’S USED TIRES. THIS ACTION CONCERNS PROPERTY LOCATED AT 1183 EAST PULASKI HIGHWAY, ELKTON, MARYLAND, TAX MAP 316, PARCEL 2333, ZONED C-2 (HIGHWAY COMMERCIAL)

Mr. Jay Emrey and Mr. Don Horton were sworn in to address this request. Mr. Emrey stated that Nelson Zepeda owned the tire business and his son Andres Garza assisted him with the business. Mr. Emrey gave an overview of the concerns from the previous meeting in December of 2016. He mentioned that these issues have been addressed and the business has been operating at this location since that time.

Mr. Emrey noted that the business and property are clean and orderly and that he has noticed other tire locations within the County which do not maintain the same appearance. He mentioned that the tires which cannot be used are placed in one of the storage trailers to be picked up for recycling. He said there has been no effect on the surrounding properties by this business being located here within this past year.

Mr. Olewine questioned why they did not request a longer time period for placement of the trailers when they came before the Board last year. Ms. Blackson interjected that the Zoning Ordinance was amended after they applied for the special exception which allowed storage trailers to be located for more than six (6) months and up to three (3) years at the discretion of the Board of Zoning Appeals.

Mr. Olewine asked if the four (4) trailers will be located on the concrete pad where the other trailers are located. Mr. Horton stated that it would be easier when moving the trailers if they were able to use more of the property. Mr. Bromwell explained that the requirements of the Zoning Ordinance are that the storage trailers are placed on either concrete or macadam and only three of the four trailers are currently placed per the requirements. The existing concrete pad will only accommodate three of the trailers and therefore more concrete or macadam would need to be placed for them to be in compliance. Mr. Bromwell stated that since they received the special exception they have never been in compliance.

Mr. Mehelas reviewed the conditions called out in the motion for the original special exception to determine if all the conditions had been addressed. These included the certificate of occupancy being issued, the placement of the trailers, and the painting of trailers to a neutral color.

Ms. Mahaffey asked if they planned to place any of the trailers on the other side of the fence as was shown on the plan submitted. Mr. Horton stated it would be easier if they were allowed to place some of the trailers behind the fence. She asked if there was concrete behind the fence. Mr. Horton stated there is crusher run which has been on the property for many years with tractor trailers coming in and out of the property for thirty (30) years.

Ms. Mahaffey asked if crusher run is suitable for the use. Mr. Bromwell responded that the Ordinance requirements for parking are concrete or macadam. There was discussion regarding the requirements of the Ordinance and it was determined that all conditions of the special exception have been met other than the material upon which the storage trailers are placed. One of the trailers is positioned with the supports

placed on top of concrete blocks. The Ordinance requires the area where the trailers are located to be made up of concrete or macadam.

Mr. Olewine asked about the timeframe they are requesting for the special exception. Mr. Emrey stated they would like to extend that time to three years. Ms. Blackson explained that the timeframe for the storage trailers is allowed to be up to three years but that the Planning Commission only recommended one year. Mr. Olewine questioned whether they needed to follow that recommendation. Ms. Blackson stated this Board has the final say in what timeframe will or will not be required. Mr. Emrey added that there are times when limitations are necessary.

Mr. Olewine entertained additional questions from the Board and question or comment from the audience. There were no additional questions.

Mr. Emrey indicated that the standard for special exceptions in Maryland is Schultz vs. Pritz and summarized that, absent from any negative effects being greater at this location than any other location in the surrounding area, it would be allowed by right. He stated he believed they have met those specific criteria.

Discussion ensued regarding specific conditions which respect to the special exception for this particular use. It was noted that in the past the tractor trailers were not stored on this site and therefore the condition regarding the material required for placement of the trailers at this site must be met due to the fact they are being stored at this location.

Mr. Olewine read the Planning Commission recommendations.

MOTION: Motion was made by Mr. Mehelas to approve the special exception for up to four (4) storage trailers for a period of three years contingent upon meeting all the conditions of the special exception, specifically placement of the trailers on an impervious surface, whether concrete or macadam. The motion was seconded by Mr. Czernik and unanimously approved.

OLD BUSINESS: None

NEW BUSINESS: Mr. Bromwell noted there will be one case for a sign variance for Aldi for the January 18, 2018 meeting.