

**TOWN OF ELKTON
BOARD OF ZONING APPEALS
SEPTEMBER 19, 2013
MINUTES**

Present: Robert Olewine; Jared Roudybush; Shirley Hicks; Dawn Schwartz; Charles E. Cramer, Jr.; Chip Bromwell, Acting Director, Building & Zoning; Jason L. Allison, Esquire, Attorney

Absent: None

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

ACTION: Motion was made by Mr. Roudybush to approve the minutes from the September 19, 2013 meeting. The motion was seconded by Ms. Hicks and unanimously approved.

CASE # 1452 – REQUEST OF WILLIAM F. HICKEY, III, 139 W. MAIN STREET, ELKTON, MARYLAND FOR A SPECIAL EXCEPTION FOR THE SALE OF MOTOR VEHICLES. THIS ACTION CONCERNS PROPERTY LOCATED AT 211/205 W. PULASKI HIGHWAY, ELKTON, MARYLAND, TAX MAP 314, PARCELS 311 AND 312, ZONED C-2

Mr. William Hickey and Mr. Kenneth Simmons were in attendance to address this request. They were sworn in. Mr. Allison inquired whether the plan they were presenting was the same plan submitted to the Planning Commission at the meeting on September 9, 2013. Mr. Hickey stated that the plan was exactly the same. Mr. Hickey stated they wish to place a used car dealership between the Oceanic gas station and the West End Gardens hotel. He pointed out that currently there is a good deal of foot traffic in that area.

They plan to build a one-story 4,000 square foot building and will be providing sixteen (16) parking spaces. The remaining open part of the lot will be used for sale of used cars. He stated the use could be compared to one they had previously heard with reference to the old KFC property on Route 40 and Whitehall Road. They will be providing a 40' buffer along Route 40 and State Highway would require approvals for their ingress and egress. He mentioned they have spoken to the property owners on either side and behind this property and he stated the neighbors are in favor of the project because they believe it will decrease the foot traffic and issues with unlawful activities in that general area.

Mr. Roudybush asked where the used car inventory would be parked. Mr. Hickey pointed out the area where the inventory would be parked on the west and rear of the lot. Mr. Roudybush asked if the entire area would be paved. Mr. Hickey confirmed that it would be paved. There would be fencing placed along the west and east lines to protect the vehicles for sale.

Ms. Schwartz asked if they have any pictures showing their proposal. Mr. Hickey stated that at this stage of the approval process they are only submitting a concept plan but that more detailed information would be submitted as the approval process moves forward. Ms. Schwartz asked if

the Oceanic gas station would remain. Mr. Hickey noted that during the Planning Commission submittal he was not sure if they would remain and since that meeting it was determined that the business would remain. Mr. Cramer asked why the plan states the business would be removed. Mr. Hickey stated the architect made that note in order to provide the general idea of their proposal. There was discussion regarding the influence of existing businesses and the foot traffic mentioned. Mr. Hickey stated they believe this proposal would alleviate much of that traffic because of the building and fences being proposed.

Mr. Cramer asked for clarification as to the specific location of both parcels involved in this submission. Mr. Hickey pointed out the areas involved. Discussion ensued regarding the number of businesses currently existing on Parcel 312 and the possible expansion in the future. Questions were raised as to whether subdivision was required for the separate uses or whether there was any limitation on the number of uses allowed on a single parcel. Mr. Hickey stated the owner plans to keep all the uses that currently exist on the parcel.

Ms. Schwartz inquired about the fact this property is within the Critical Area. Mr. Hickey stated the other uses on the parcels have been approved previously and there would be no change to the Critical Area with this proposed use. Mr. Olewine questioned the amount of asphalt being placed on the property and how it was possible it would not affect the Critical Area. Mr. Simmons spoke up and said they cannot move on through the approval process without the special exception and their plans will have to be approved by many different agencies. Mr. Olewine stated that there are just so many questions that are not able to be answered that they are having a difficult time making that determination.

There was discussion regarding an approval from the previous meeting and it was determined that the project in question had not been before the Board of Zoning Appeals at this time. Mr. Simmons stated that the zoning ordinance requires a special exception for this use. Ms. Hicks voiced her concern that the Board did not have enough information to make an informed decision. After additional discussion Mr. Allison interjected that according to the standards for special exceptions under Part IV, Section 6 of the Town Zoning Ordinance the use would be a matter of right if they are able to meet the standards set forth in this section. The Board requested copies of the standards. They were provided to the Board and to the presenters.

Mr. Cramer voiced his concern regarding housing behind the property and residential property buffers, lighting, etc. Discussion ensued regarding illegal activity, homeless and a number of other concerns with this area. Mr. Cramer stated he felt the plan had a number of questions that have not been addressed. Mr. Simmons noted that during the approval process all of these questions would be required to be addressed. They are simply showing the basics of what they would like to develop on this parcel. Additional discussion regarding these issues ensued. Mr. Roudybush asked a question of legal counsel, Mr. Allison, regarding whether Part IV, Section 6 needed to be met or in motion prior to their decision. Mr. Allison stated that was an element that the Board needed to consider.

Mr. Hickey pointed out that utilities were already located on this parcel. Mr. Olewine repeated his concern that stormwater runoff is not able to be addressed at this point. Mr. Hickey pointed out that this is a multi-step process and they are not able to provide the answers to all the Board's questions unless and until the special exception request is addressed. Discussion followed regarding flooding issues and the Critical Area.

Mr. Olewine entertained question or comment from the audience.

Ms. Asma Manejwala of 212 Bruce Court stated she had a few questions about the property. She stated that the majority of this parcel is in the Critical Area and part of it is Resource Protection. She mentioned that if the Board grants the special exception that would grant the use across the entire parcel. She wondered what would keep this owner, or future owners, from using the special exception across the entire parcel. She voiced her concern about flooding issues and pointed out that the C-2 zone allows 85% impervious surface coverage.

Mr. Hickey commented he believed Ms. Manejwala was on the Planning Commission on the September 9, 2013 meeting when this project was heard and it has come to his attention since that meeting that she has a conflict with the owner of the property in question. He stated he believed she should have recused herself from asking any questions at that meeting or voting at that meeting. Mr. Olewine stated he felt this was not the venue for Mr. Hickey's objection and that Ms. Manejwala had the right to voice her opinion since she was not doing so as the Chair of the Planning Commission. Mr. Hickey asked that his objections be noted. Mr. Allison said that he would note Mr. Hickey's objection but that he was not a member of the Ethics Board.

Ms. Manejwala responded to Mr. Hickey's objection by stating that as a member of the Planning Commission she did not vote on that project and that as Chair she is not allowed to vote unless it is to break a tie vote.

Ms. Mary Cannistraro of 662 Augustine Herman Highway spoke in favor of the special exception. She stated she lives on High Street, two blocks back from the property in question. She said there is a lot of foot traffic from Hollingsworth Manor and believes the new building would be a deterrent. She mentioned a vacant house in the area which had been set on fire four times last year.

Mr. Olewine read the Planning Commission recommendation (see attached) as well as a letter from Ms. Candy Bathon speaking against the project (see attached letter).

MOTION: Motion was made by Ms. Schwartz to recommend denial of the special exception due to lack of sufficient information according to Part IV, Section 6, Subsection 4 of the Elkton Zoning Ordinance. The motion was seconded by Ms. Hicks and unanimously approved.

CASE # 1453 – REQUEST OF MCCRONE, INC., 106 E. MAIN STREET, SUITE 101, ELKTON, MARYLAND, FOR A SPECIAL EXCEPTION FOR THE SALE OF MOTOR VEHICLES. THIS ACTION CONCERNS THE FOLLOWING PROPERTIES LOCATED ON TAX MAP 315: PARCELS 2042, 2043, PART OF PARCEL 2051 (DESCRIBED AS LOT 58), THE SOUTHERN 200 FEET OF THE PAPER STREET KNOWN AS LINCOLN AVENUE AND ONE HALF OF THE SOUTHERN 320 FEET OF THE EASTERLY SIDE OF THE PAPER STREET KNOWN AS WASHINGTON AVENUE, ZONED C-2

Mr. David Strouss of McCrone, Inc. and Mr. Mark Hyman of Ramsey Ford were in attendance to address this request. They were sworn in. They are requesting a special exception for motor vehicle sales. The total area of the site is 2.9 acres in size and is a redevelopment of the former Advantage Dodge site. They will be placing a new car dealership and service center. A portion of the property (Parcel 2043) received a special exception in November 2010. The Town informed them the special exception did not cover the entire property they are not proposing and therefore that is why they are including all the parcels. There was discussion about which area received the special exception in 2010.

Mr. Strouss stated they are proposing two access points and submitted the concept plan to State Highway. They have prepared a traffic study. State Highway commented on the concept plan and recommended the entrances be at Washington & Lincoln Avenues and therefore they have removed one of the existing access points. Mr. Strouss stated that because this is a redevelopment they would be addressing stormwater management based on redevelopment requirements. They have done geotechnical soil evaluations and there are silt/clay and below exists a sandy layer into which they will infiltrate runoff from their building. Additionally, he stated they are proposing a 25,000 square foot building to be used for sales and service.

Ms. Schwartz mentioned that there is an existing building. Mr. Strouss noted that three buildings will be torn down and one building would be built back on the property. Mr. Olewine asked for clarification about another building near that location. Mr. Strouss clarified that the building Mr. Olewine is referring to is not part of this proposal and would remain on the other site.

Mr. Roudybush asked if everything at their other location across Route 40 would be moved to this site. Mr. Hyman confirmed that everything would be moved. He also mentioned that the new building would be an environmentally 'green' building. Ms. Schwartz asked if the proposed building would be the same size as the three buildings that are being removed. Mr. Strouss stated it would be larger than the three buildings being removed and that the height would be under 30 feet.

Ms. Hicks commended them on the details provided to the Board for this project.

Mr. Olewine entertained questions or comment from the audience. There was no comment.

Mr. Olewine read the Planning Commission recommendation regarding this project.

MOTION: Motion was made by Ms. Schwartz to approve the special exception for Ramsey Ford. The motion was seconded by Mr. Cramer and unanimously approved.

CASE # 1454 – REQUEST OF PILOT TRAVEL CENTERS, LLC, 5508 LONAS ROAD, KNOXVILLE, TENNESSEE FOR THE FOLLOWING VARIANCES: 1) A RELAXATION OF THE MAXIMUM NUMBER OF WALL SIGNS PER STRUCTURE BY FIVE (5); 2) A RELAXATION OF THE MAXIMUM SIZE OF A WALL SIGN BY: E-1/587 SQUARE FEET, E-2/60 SQUARE FEET; E-3/60 SQUARE FEET AND E-4/587 SQUARE FEET. THIS ACTION CONCERNS PROPERTY LOCATED AT 221 BELLE HILL ROAD, ELKTON, MARYLAND, TAX MAP 303, PARCEL 2114, ZONED C-3

Mr. Brandon Parks of Pilot Flying J and Mr. Randy Quakenbush of Golden Corral were in attendance to address this request. They were sworn in. Mr. Parks explained in December of 2012 Pilot Flying J purchased the truck stop and it has been through extensive development. They received permits for that work and the canopy which has been placed in front of the building. Golden Corral has since become a leasee for their building and they are now requesting signage for that canopy installed in May of this year.

Mr. Parks provided information regarding the signage they are requesting. There was some question regarding the square footage of signage requested and the amount of signage requested in the public notice. It was determined that for the variance request the Building Official used the entire area of each side of the canopy to determine the square footage for the sign on each side.

Mr. Olewine entertained questions from the Board. Ms. Hicks inquired about the sign on the building which is currently covered. Mr. Quakenbush stated that it is also a Golden Corral sign but the building sign was under a different permit.

Mr. Olewine entertained questions from the audience. There were none.

MOTION: Motion was made by Mr. Roudybush to approve the relaxation of the number of wall signs as requested. The motion was seconded by Ms. Hicks and unanimously approved.

MOTION: Motion was made by Mr. Roudybush to approve the relaxation of the maximum size of the wall signs as discussed. The motion was seconded by Ms. Hicks and unanimously approved.

OLD BUSINESS: None

NEW BUSINESS: None

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The next meeting of the Board of Zoning Appeals will be October 17, 2013.

There being no further items for discussion Mr. Olewine adjourned the meeting at 8:24 p.m.

Respectfully submitted,

Brenda Humphreys