

**TOWN OF ELKTON
BOARD OF ZONING APPEALS
JULY 16, 2009
MINUTES**

Present: Sharon Foster, Chair; Ronald Rae; Robert Olewine; Patrick Tuer; Jared Roudybush; J. Craig Trostle, Jr., Director, Building & Zoning; Brenda Sexton-Wilson, Esquire, Attorney; Brenda Humphreys, Administrative Assistant

Absent: None

Steno: Carol Beresh

Ms. Foster called the meeting to order at 7:00 p.m.

ACTION: Motion was made by Mr. Rae to approve the minutes of the June 18, 2009 meeting. Motion was seconded by Mr. Roudybush and unanimously approved.

CASE # 1371 – REQUEST OF ALI MANEJWALA, 212 BRUCE COURT, ELKTON, MARYLAND FOR A 15’ REAR SETBACK VARIANCE TO ENCLOSE AN EXISTING DECK. THIS ACTION CONCERNS PROPERTY LOCATED AT 212 BRUCE COURT, TAX MAP 312, PARCEL 2241, ZONED R-2

Mr. Ali Manejwala and Ms. Asma Manejwala were sworn in and introduced to the Board. Ms. Foster asked Mr. Manejwala to explain their request. Mr. Manejwala stated that the deck is 16’x36’ and they wish to enclose 16’x20’ of the deck. Ms. Foster asked them to explain the error which they were correcting by this application. Mr. Manejwala stated that the original deck built with the house was already into the required rear setback and they wished to add that portion to this variance request.

Mr. Rae inquired about the location of the steps. Ms. Manejwala stated that the steps are located west going into the back yard but are not in the area where the variance is required.

Ms. Foster entertained questions from the Board. Mr. Rae noted that two decks were shown on the plans. Ms. Manejwala stated that the smaller original deck would be removed. Mr. Rae asked if they had contacted the neighbors concerning the new deck. Ms. Manejwala stated that they had spoken with the neighbors and they were alright with the deck since it did not obstruct their view.

Mr. Olewine asked for some clarification regarding the location of the deck. Ms. Manejwala provided a plan showing that the deck would go to the corner of the house and that only the original deck would be enclosed. Mr. Olewine asked if the original deck footers met the Code requirements. Mr. Trostle stated that the footers did meet the Code requirements.

Ms. Foster entertained additional questions from the Board or the audience. There were no additional comments or questions.

MOTION: Motion was made by Mr. Tuer to approve the 15’ rear setback variance contingent upon construction being completed within one year of the date of the legal opinion. The motion was seconded by Mr. Olewine with the remaining members voting as follows: Mr. Roudybush – Yes; Mr. Rae – No; Ms. Foster – Yes. Motion was approved.

CASE # 1372 – REQUEST OF TUPP SIGNS, 457 E. NEW CHURCHMAN’S ROAD, NEWARK, DE FOR THE FOLLOWING VARIANCES: 1) 29’ FRONT YARD SETBACK VARIANCE AND 2) VARIANCE TO EXCEED THE TOTAL ALLOWABLE SQUARE FOOTAGE FOR SIGNAGE BY 155.82 SQUARE FEET. THIS ACTION CONCERNS PROPERTY LOCATED AT 202 E. PULASKI HIGHWAY, TAX MAP 315, PARCEL 2373, ZONED C-2

Mr. Allen Goldberg of Tupp Signs and Ms. Jennifer Arches, owner of the property, were sworn in and introduced to the Board. Mr. Goldberg stated that the variances requested are for safety reasons. He stated that Firestone and the other two tenants of the property feel that the existing sign is too high and are therefore unable to see the sign until it is too late to turn into the property.

Ms. Foster asked what would be done with the existing sign if the proposed one is approved. Mr. Goldberg stated that the existing pole sign would be removed. He noted that the roof of the car, as it approaches the Firestone building, can block visibility of the existing sign due to its height and they feel a monument sign closer to the ground would be more visible and thereby provided greater safety to customers trying to locate the business.

Ms. Foster questioned the locations of the proposed sign. Mr. Goldberg stated that the sign would be placed in one of the parking spaces rather than in the grassy area close to the road. Ms. Foster asked if the proposed sign would be lighted. Mr. Goldberg stated that it would be lighted.

Ms. Foster questioned whether the sign could be moved further back from the road. Mr. Goldberg stated that further back would place the sign in the driveway and would not be safe.

Ms. Foster asked if the current sign caused them to lose business. Mr. Goldberg stated that he did not believe it was a factor. Ms. Foster asked how long the sign had been at this location. Ms. Arches stated that the sign was placed in 1986 by Vito DeMarco when the Penn Jersey was placed there. She stated that there have been additions done since that time and the mechanism for rotating the sign is in disrepair and keeps breaking. She said that their intention is to create a better visual sign from the road because of the bad intersection where there are numerous accidents getting in and out of Big Elk Mall. She stated that she believes the proposed sign may help to alleviate some of the accidents. She noted that 20,000 cars drive that section of road every day.

Ms. Foster stated that she did not feel the lower sign would not make the intersection safer. Ms. Arches felt that a ground level sign would be safer due to the fact it would be easier to see. She pointed out that the Mighty Muffler sign blocks their sign. The problem with visibility is more from the west than the east when approaching their property. Ms. Arches stated that their building is set back off the road and it is more difficult to see.

Ms. Foster asked if the proposed monument sign is what the Firestone dealers at other locations currently have. Ms. Arches stated that she was correct. Ms. Foster pointed out that most customers would turn around to get where they wish to go if they pass the business they are seeking.

Ms. Arches stated that Firestone is aware that if the rotating sign is removed that it will not be able to be replaced. She added that because of growth along the highway corridor it has become more difficult to see their sign. Mr. Goldberg presented pictures showing how the sign is being blocked by a building and sign to the west and by a building to the east. Mr. Olewine stated that he was at the property location and the Firestone sign is taller than either the building or the other signs in the area and felt that the sign can be seen with no problem. Ms. Foster wondered if they wouldn't prefer a pylon sign.

Mr. Rae asked why they feel a ground level sign is the best at this location. Mr. Rae mentioned that you are unable to see through the sign and that the other two businesses at this location have taller signs. Mr. Goldberg stated that they could place a pylon sign with an open area below the sign. Ms. Arches noted that the current sign can be seen from the mall but it is more difficult to see when coming either east or west on Route 40. Mr. Tuer pointed out that the first time he came to Firestone he missed the sign and had to make a U-turn to go to the business.

Mr. Olewine asked if Firestone would like to amend their application with reference to the additional 155.82 square feet. Mr. Goldberg stated that they wished to amend the application and remove the current rotating sign therefore eliminating the need for the square footage variance.

Mr. Roudybush asked if Jiffy Lube was approached about the variance. Ms. Arches stated that they did not show them the proposed sign. Mr. Goldberg noted that they did have the opportunity to come to the meeting and object.

Ms. Foster entertained questions or comments from the audience. There were none.

MOTION: Motion was made by Mr. Rae to approve the 29' front setback variance to construct a new sign contingent upon removal of the old sign and the new sign being constructed within one year of the date of the legal opinion. The motion was seconded by Mr. Tuer with the remaining members voting as follows:

Mr. Roudybush – Nay; Mr. Olewine – Nay; Ms. Foster – Nay. The motion was denied.

CASE # 1373 – REQUEST OF MIKE & LINDA SMITH, 7 VINCE COURT, ELKTON, MARYLAND FOR A 12' REAR YARD SETBACK VARIANCE TO CONSTRUCT A PORCH. THIS ACTION CONCERNS PROPERTY LOCATED AT 7 VINCE COURT, TAX MAP 302, PARCEL 2467, ZONED RO

Mr. Mike Smith was sworn in and introduced to the Board. Ms. Foster stated that the porch was partially constructed and asked Mr. Smith to discuss their variance request. Mr. Smith stated that they are requesting a rear setback variance in order to be in compliance with the Town's Ordinance.

Ms. Foster asked if the porch will be 10' x 12' as shown in the plans provided. Mr. Smith stated that she was correct. Ms. Foster asked if Mr. Smith would be building the porch himself. He stated that he and a contractor are building the porch.

Ms. Foster inquired whether any inspections had been done to this point. Mr. Smith stated that he was not aware of any inspections being done. Mr. Trostle confirmed that no inspections have been done as yet.

Ms. Foster asked when the porch construction was begun. Mr. Smith stated that it was begun approximately one month ago. Ms. Foster inquired whether the porch will have steps. Mr. Smith stated that the porch is at ground level but that there will be one step to the concrete pad.

Ms. Foster asked if the porch will be screened. Mr. Smith stated that it will be fully screened just like the neighbor's porch.

Ms. Foster asked if the contractor is licensed in Maryland. Mr. Smith stated that his is a licensed contractor in Maryland.

Ms. Foster entertained questions or comment from the audience. There were none.

MOTION: Motion was made by Mr. Roudybush to approve the 12' rear setback variance for a screened porch. The motion was seconded by Mr. Tuer and unanimously approved.

CASE # 1374 – REQUEST OF SARAH LANGLEY, FOR A SPECIAL EXCEPTION FOR AN IN HOME OCCUPATION. THIS ACTION CONCERNS PROPERTY LOCATED AT 203 BUTTONWOODS ROAD, TAX MAP 319, PARCEL 2345, ZONED R-3

Ms. Sarah Langley was sworn in and introduced to the Board. Ms. Langley stated that she is a licensed professional counselor for Maryland and would like to be able to provide counseling to clients using the lower level of her home. Her clients have mood disorders such as anxiety, depression, etc. and would initially see patients Wednesday and Thursday from 6:00 to 8:00 p.m. and Fridays from 9:00 -5:00 p.m.

Ms. Foster asked how clients are referred. Ms. Langley stated that most clients are referred by insurance companies. She stated that she also does counseling in a business setting but would provide that service at the business location.

Ms. Foster asked her about couples counseling. Ms. Langley stated that her couples counseling may have three couples involved at the most. Any groups larger than three couples would be held at an alternate site.

Ms. Foster asked about the size of the rooms being used for the counseling. Ms. Langley stated that the main room would be approximately 10' x 12' with another room of unknown size being used for a waiting area if needed.

Mr. Tuer asked if her clients would let themselves into her home. She stated she would schedule her patients far enough apart so that she would be available to greet the next client. Her appointments are usually 45-50 minutes.

There was discussion concerning the greatest number of cars that would be at the property at any given time and the number of spaces available at the subdivision. Mr. Tuer mentioned that the unassigned spaces in the subdivision were full when he was in the community. Mr. Trostle pointed out that the Town recently took over the parking by Quit Claim deed because the Homeowner's Association became defunct.

Mr. Rae asked if she had contacted her neighbors regarding the home occupation. Ms. Langley stated that she had spoken with some of her neighbors and they were very supportive of what she is planning.

Mr. Tuer inquired whether any of the clients could become violent. Ms. Langley stated that she is not licensed to see patients with these tendencies and that she does not prescribe medication.

Mr. Olewine stated that his main concern is that the greatest parking need is in the evening when she would be seeing clients. Ms. Langley stated that couples counseling would be during the day when the parking is more available. The evening schedule would be one person at a time and so should not impact the parking.

Mr. Roudybush asked if her basement was finished. She stated that her basement is finished but does not have an outside entrance on the lower level.

Ms. Foster read the Planning Commission recommendation from their meeting on July 13th which gave unanimous recommendation to the proposed home occupation.

Ms. Foster entertained questions from the audience. There were none.

MOTION: Motion was made by Mr. Rae to approve the home occupation for an initial term of one (1) year in order to monitor parking conflicts between clients and residents in the community. The motion was seconded by Mr. Olewine and unanimously approved.

OLD BUSINESS: Mr. Trostle stated that a variance for parking may be submitted for the Mary Randall Center. Mr. Trostle stated that a new business sign was placed at 151 E. High Street (old Slagle Vision building) and according to their website they are hoping to purchase the property at the corner of Landing Lane and Route 40 (George's Restaurant and Hotel).

Ms. Foster inquired about whether a 'Sonic Restaurant' is coming to Elkton. Mr. Trostle stated that there have been rumors but that the Town has not received any formal submissions or been contacted by Sonic.

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Ms. Foster noted that the two agenda items which were withdrawn (Cases 1375 & 1376) will be heard at the August meeting.

NEW BUSINESS: None

There being no further business to discuss Ms. Foster adjourned the meeting at 7:52 p.m.

Respectfully Submitted,

Brenda Humphreys