

**TOWN OF ELKTON
BOARD OF ZONING APPEALS
SEPTEMBER 17, 2009
MINUTES**

Present: Sharon Foster, Chair; Ronald Rae; Robert Olewine; Jared Roudybush; Dawn Marie Baylis; 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. Roudybush to approve the minutes of the August 20, 2009 meeting. Motion was seconded by Mr. Rae and unanimously approved.

CASE # 1380 – REQUEST OF CHARLES & DEBORAH RACE, 109 CONTINENTAL DRIVE, ELKTON, MARYLAND FOR A VARIANCE TO ENCROACH 79" IN THE SIDE YARD WITH A SIX FOOT FENCE. THIS ACTION CONCERNS PROPERTY LOCATED AT 109 CONTINENTAL DRIVE, TAX MAP 312, PARCEL 2229, ZONED R-2

Charles & Deborah Race were sworn in and introduced to the Board. Ms. Foster asked for the homeowners to explain the purpose of the encroachment variance. Mr. Race stated that the fence is a 6 foot privacy fence. Ms. Foster asked if they had installed the fence. Mr. Race stated that they installed the fence. Ms. Foster asked if a permit had been pulled. Mr. Race stated that the permit was issued and the inspections were completed. He submitted pictures of the fence as it is currently installed.

Ms. Foster asked if the fencing is on both sides of the house. Mr. Race stated that there was fencing on both sides of the house. He added that it is shorter on one side due to the slope of the yard. Ms. Foster asked if the wooden planters belong to them. Mr. Race stated that they did.

There was discussion regarding the distance from the property line to the fence. Mr. Race stated that it is 18' at the front and 12' at the back from the property line.

Mr. Rae pointed out that the house is open to the road side and you can see into the back yard. Mr. Race stated that it depends on where you are standing. He said that you cannot see much of the pool from the road. Mr. Rae stated that they could have placed a four foot section of fence in the area where there is no fence. Mr. Race stated that he had not considered placing a four foot fence in that area.

Ms. Foster entertained questions or comment from the audience.

Mr. Jerry Ivey of 111 Continental Drive spoke in opposition to the fence variance. He stated that after the Town inspected the fence, the homeowners added additional fencing. He stated that in his opinion the Town code states that the fence posts should be included in the height requirements.

Mrs. Race stated that the fence was installed in 2007 and they have made no changes to it since that time. She added that the fence has been inspected numerous times.

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

MOTION: Motion was made by Mr. Rae to deny the variance request to encroach 79" into the side yard with a six foot fence. The motion failed for lack of a second.

MOTION: Motion was made by Mr. Olewine to approve the variance request to encroach 79" into the side yard with a six foot fence. The motion was seconded by Ms. Baylis with the remaining members voting as follows: Mr. Rae – No; Mr. Roudybush – Yes; Ms. Foster – Yes. The motion passed with a majority vote of the members.

CASE # 1381 – REQUEST OF USA SIGNS OF AMERICA, INC., 172 E. INDUSTRY COURT, DEER PARK, NY FOR A 25' FRONT SETBACK VARIANCE FOR PLACEMENT OF A SIGN. THIS ACTION CONCERNS PROPERTY LOCATED AT 349 E. PULASKI HIGHWAY, TAX MAP 315, PARCEL 2016, LOT 3, ZONED C-2

Mr. Tom Furlong of AAMCO and Mr. Steven McConnell of Aerial Signs were sworn in and introduced to the Board. Mr. McConnell stated that they are requesting that the sign be allowed to sit closer to the road than the original setback. They are proposing to place the sign 15-20 feet off the curb line.

Ms. Foster asked how far off the curb was the sign in the picture submitted. Mr. McConnell stated that it was 15' from the curb. Ms. Foster asked the height of the sign. Mr. McConnell stated that the height will be 15' from grade.

Ms. Foster asked if they had any plans to place additional signage in the existing tenant sign. Mr. McConnell stated that AAMCO prefers to place their own sign. Ms. Foster asked if each AAMCO facility has their own freestanding sign. Mr. McConnell stated that they do and added that their building is at the rear of the property and therefore has no visibility.

There was discussion regarding how much square footage would be left with some tenants moving and others just moving in. It was determined that there will be one area left unoccupied. Mr. Trostle stated that there was a 5,000 square foot addition that is currently not rented.

Mr. Olewine asked Mr. Trostle if the top sign on the existing pole sign would put it over the allowable square footage. Mr. Trostle stated that even with the sign being requested by this variance they would still be within the allowed signage for the property.

Discussion continued regarding the height of the proposed sign and whether it would block existing signs of other businesses in the area. Mr. Furlong stated that they would consider placing a monument sign instead if they were allowed to do that. Mr. Trostle inquired about the height of a monument sign if it was placed. Mr. Furlong stated that there would be a 12" pole with a 6' sign and landscaping. Mr. Trostle stated that the sign would be the same size but with a shorter pole than the one proposed.

Ms. Foster asked if the base would be the same as the brick on the building. Mr. McConnell stated that it would be similar.

Ms. Foster entertained comment from the audience.

Mr. Harry McMullen, owner of M&M Sports at 343 E. Pulaski Highway was sworn in and introduced to the Board. He stated that he was not in opposition to the sign just the location. He voiced his concern regarding the location and the possibility of it blocking his existing sign.

Ms. Foster asked what his opinion would be if the sign were lowered to 6 or 7 feet. Mr. McMullen stated that he would not have an issue with the sign at that height.

Ms. Foster entertained any additional questions from the Board or the audience. There were none.

MOTION: Motion was made by Mr. Olewine to approve the sign provided it is a monument sign and that it be no taller than seven (7) feet. The motion was seconded by Mr. Roudybush and unanimously approved.

CASE # 1382 – REQUEST OF COMMONWEALTH REALTY, 221 EAST MAIN STREET, ELKTON, MARYLAND FOR THE FOLLOWING: 1) VARIANCE TO EXCEED MAXIMUM ALLOWED SIGNAGE BY SEVEN (7) SQUARE FEET; 2) 9 ½ FOOT FRONT SETBACK VARIANCE FOR PLACEMENT OF A SIGN. THIS ACTION CONCERNS PROPERTY LOCATED AT 221 EAST MAIN STREET, TAX MAP 311, PARCEL 1061, ZONED RO

Mr. Frank Perrin was sworn in and introduced to the Board. He stated he is new to the Town and his business as a CPA and tax preparer is located at 221 East Main Street. He mentioned that another tax practice, owned by Mr. Green, had been at the same location for many years.

Mr. Perrin stated that the sign will be consistent with the historical character of the neighborhood. The sign will be an antique wood sign, engraved in gold with Frank Perrin Tax Service and the phone number. He pointed out that Mr. Barnes and Ms. Boone have the same size sign.

Ms. Foster asked about the sign currently at this location. Mr. Perrin stated that the existing sign was temporary until the permanent sign is placed.

Ms. Foster stated that there would be one post for the sign. Mr. Perrin stated that she was correct. He added that there would also be a decorative wrought iron rail.

Ms. Foster entertained questions from the Board. There were none. Ms. Foster entertained comments in favor or in opposition of the sign request.

Mr. Robert Parrack spoke in opposition to the sign request. He stated that he did not feel the sign should be any larger than the existing temporary sign.

Ms. Foster asked Mr. Perrin the size of the existing temporary sign. He stated that he was not sure of the size but thought it was about the size of two 8 ½ x 11 sheets of paper side by side. Ms. Foster asked if the size of the permanent sign was the same as the existing temporary sign would that be acceptable to him. He stated that the temporary sign is highly visible but the design of the proposed sign would not be as visible due to the color and size.

Mr. Parrack asked about the sign on Main Street at the Elkton House and wondered if the Board had approved that sign as well. Ms. Foster stated that they did approve the sign.

Mr. Perrin pointed out that other businesses on Main Street have the same opportunity as he to request a larger sign and does not feel he should be opposed for requesting a larger sign.

Ms. Foster noted that the sign has been up for two weeks and asked if clients have had difficulty finding his new location. Mr. Perrin stated that his clients are having difficulty finding him since his move from North East.

Ms. Foster stated that most of the businesses on Main Street have similar size signs. Ms. Baylis asked if Mr. Perrin was aware of the size of the proposed sign because she did not believe it was as large as 3' x 3' which he is proposing. Mr. Perrin stated that the sign company told him that it would be approximately the size and design of the sign at Mr. Barnes & Ms. Boone's office.

Ms. Foster pointed out that there was discrepancy between what the sign company was depicting and what was being requested by the variance. He stated that he would be willing to change the size of the sign dependent upon the Board's desire.

Mr. Parrack added that he was not in favor or of any signs that are larger than what the Zoning Ordinance allows.

Mr. Arnie Pavlik stated that he owns the other half of the building where Mr. Perrin's office is located. He said that he measured the temporary sign and it is 36" x 34". He stated that he is in opposition to the requested 36" x 36" sign since his wife's office is next door and her sign does not exceed the two square feet allowed by the Zoning Ordinance.

MOTION: Motion was made by Mr. Olewine to deny the additional square footage variance request for Mr. Perrin's sign. The motion was seconded by Mr. Roudybush and unanimously approved.

MOTION: Motion was made by Mr. Roudybush to approve the 9 ½ front setback variance for placement of a sign. The motion was seconded by Mr. Olewine and unanimously approved.

CASE # 1383 – REQUEST OF POWER AMERICA, INC., 503 E. PULASKI HIGHWAY, ELKTON, MARYLAND, FOR A SPECIAL EXCEPTION TO ALLOW OUTSIDE STORAGE OF EQUIPMENT TO BE RENTED AS PART OF THEIR BUSINESS. THIS ACTION CONCERNS PROPERTY LOCATED AT 601 E. PULASKI HIGHWAY, TAX MAP 315, PARCEL 2058, LOTS 9, 10, 11, & 12, ZONED C-2

Mr. J. L. Calicyo of Power America and Mr. Jason L. Allison, Esquire were sworn in and introduced to the Board. Mr. Allison stated that Mr. Calicyo is the Vice President of Power America and would be answering some questions during their presentation. He stated that Power America is a Delaware Corporation registered to do business in the State of Maryland. The company Power America was formerly located at 555 Blueball Road for approximately 2 1/2 years with a principal business that sells and rents small construction and lawn equipment such as lifts, excavators, backhoes, and lawn mower, etc. He pointed out that the pictures provided with the application are of the Blueball Road location. The previous use at this property was Advantage Dodge and is located at 601 E. Pulaski Highway, Lots 9-12 and he feels that in terms of having product out in front of the business for review of customers it is not much different than the previous use that had upwards of 100 vehicles on display. He pointed out that the equipment would be removed every evening from the front of the property into a fenced area at the rear.

Mr. Allison stated that the property is zoned C-2 and sales of this type are permitted with a special exception. It is in the Commercial Corridor and there are two car dealerships in the area. He stated that they believe this business is in harmony with other businesses in the area.

Mr. Calicyo stated that he has been with the company for two years. The company had previously been at 555 Blueball Road since its inception. Mr. Calicyo stated that his business is mainly geared toward contractors and homeowners and that along with the small equipment and lawn mowers they also sell power tools and clothing (Carhart, etc.). He stated that most of his clients are local business people and listed the different equipment they sell.

He stated that they normally receive approximately 30 customers a day. He stated that they are open Monday through Friday from 6:30 a.m. to 5:30 p.m. and Saturday from 6:30 a.m. to 1:00 p.m. They open at 6:30 a.m. to accommodate contractors.

Businesses in their area include Sutton Motel, Ramsey Ford, and the Batting Cages and Golf Range across Route 40. He stated that their business will not create issues in the area with regard to noise. The only changes to the exterior of the building will be sign placement for which a permit is pending. He noted that the building is serviced by Town water and sewer. The only changes to the interior of the building will be to upgrade the carpet, paint, etc. There is existing office space at the rear of the showroom with three restrooms which will continue to be used for the business. The current retail floor area will be approximately half of the building and will showcase their retail clothing and small equipment.

Mr. Allison inquired about the number of entrances available at the location. Mr. Calicyo stated that there are five areas for entrance and exit. Mr. Calicyo stated that approximately 20 pieces of equipment will be displayed at the front of the building and would not interfere with the ingress or egress from the property. There are two entrances off Route 40 with parking along that road. Mr. Calicyo stated that the business will conform to the district in which it is located.

Ms. Foster asked if the equipment that will be removed each evening would be in the fenced area at the rear of the property. Mr. Calicyo stated that she was correct.

Mr. Rae asked about security for the property. Mr. Calicyo stated that the fence is barbed and that there are security cameras.

Mr. Rae asked where the oil used for the equipment will be stored. Mr. Calicyo stated that they will be taking advantage of the existing mechanical bays and fuel oil containment and the oil will be stored on site in a storage shed.

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

Ms. Foster read the Planning Commission decision as determined at the September 14th meeting.

Motion: Motion was made by Mr. Rae to recommend approval for the special exception to allow outside storage of their equipment for use with their business. The motion was seconded by Mr. Roudybush and unanimously approved.

CASE # 1384 – REQUEST OF MARC SCHEINER, 360 E. PULASKI HIGHWAY, ELKTON, MARYLAND FOR A VARIANCE OF 20 PARKING SPACES AS REQUIRED BY THE TOWN OF ELKTON ZONING ORDINANCE, ARTICLE XVII, SECTION 2, SUBSECTION 5 (TABLE OF MINIMUM PARKING REQUIREMENTS) FOR MEDICAL CENTERS. THIS ACTION CONCERNS PROPERTY LOCATED AT 360 E. PULASKI HIGHWAY, TAX MAP 315, PARCEL 2384, ZONED C-2

Dr. James Stottlemeyer and Mr. Dwight Thomey were sworn in and introduced to the Board. Mr. Thomey stated that the business is owned by a group of doctors and the purpose of the request is that the original intent of the building was for a medical office building but provided parking as though it were a regular office building. When they first received the permit for the construction of the building they were not sure of all the types of offices that would eventually be in the building and therefore provided additional parking. Mr. Thomey stated that all of the offices are currently occupied by physicians.

Mr. Thomey stated that the lot itself has some interesting constraints which include an easement, storm drain and storm water management facility and therefore additional parking is unable to be placed at the rear of the property. He added that other reasons that the variance should be approved is that there is a surgical unit on the 2nd floor which only has a limited number of people at any one time. He pointed out that the parking has never been full since the building opened.

Mr. Thomey pointed out that the existing parking regulations are basically designed with a lot of problems of the old town. He pointed out that this facility is self policing due to the fact that there is nowhere else to park and the patients will let them know if they are experiencing issues with parking.

Dr. Stottlemeyer stated that the reason for the variance request is due to requests from other medical staff to locate to their building. They have hesitated proceeding until the parking situation was known. They are considering building out their lower level space which is currently empty but has rough in for plumbing, HVAC and access to the front and back stair wells and elevator as well. The only thing holding them back from providing space to other medical staff is the parking issue.

Dr. Stottlemeyer provided a proposed office space floor plan for the lower level space. They currently have 87 units of 19,000 square feet and they decided to do an internal study for three months to check parking space count. It was determined that less than half of the parking spaces were being used during the day.

Dr. Stottlemeyer pointed out that when the plans were originally submitted it was reviewed as simply general office space and therefore they were allowed 87 parking spaces for the 19,333 square feet. If you look at the use of the building currently he believes it is actually medical offices. He pointed out that 2,000 square feet of that building is common area which includes the stair wells and the surgical center on the second floor. He said that only a certain number of people would be in the surgical center at any given time and therefore they believe this is the reason for the excess in parking each day.

Ms. Foster asked if there would be two office spaces in the lower level. Dr. Stottlemeyer stated that it could be more than one office space but they need to provide access to the stair wells to comply with the fire code.

Ms. Foster asked if employees park toward the back of the building. Dr. Stottlemeyer stated that 95% of the employees park at the rear of the building. He stated that during construction Pizza Hut had allowed construction workers to park in their lot and they have given permission for use of some of their parking space but are unable to make it a permanent agreement. The Fair Hill Florist stated that they would be open to allowing overflow parking on their property.

Ms. Foster asked if they have any complaints from patients regarding parking. Dr. Stottlemeyer stated that the only complaints they have had is regarding insufficient handicapped parking and they are anticipating adding two more spaces at the front of the building.

Ms. Baylis stated that if they do not know what use will actually be going into the lower level how can they make a determination for parking. Dr. Stottlemeyer stated that their livelihood is in this building and it would be to their detriment to ignore the need for parking for their patients.

Ms. Foster entertained questions from the Board and the audience.

Mr. Don Williams of 205 Friendship Road spoke in favor of the variance. He stated that he has been a patient at this location and had a good experience. He said that he feels the building is well laid out and positive design and is an asset to the Town. He felt allowing the additional parking spaces will not only allow the medical offices to expand their essential services but would allow citizens to access the facility for their medical needs. He believes the Town should be proud to have such a qualified health care facility within the Town.

There were no additional questions or comments from the audience.

MOTION: Motion was made by Mr. Roudybush to approve the variance of 20 parking spaces. The motion was seconded by Mr. Olewine and unanimously approved.

Board of Zoning Appeals

September 17, 2009

Page 8 of 8

OLD BUSINESS – Mr. Trostle informed the Board that an administrative review had been requested regarding parking at 401 North Street. He stated that he needs to make a determination regarding their request for a waiver of parking at this location.

NEW BUSINESS – Mr. Trostle stated that a church is now located at 155 East High Street and that he understands from their website that they are hoping to purchase the property on Route 40 and Landing Lane where George's Restaurant had been located.

There being no further business to discuss Ms. Foster adjourned the meeting at 8:30 p.m.

Respectfully submitted,

Brenda Humphreys