

**TOWN OF ELKTON
BOARD OF ZONING APPEALS
APRIL 17, 2008
MINUTES**

Present: Sharon Foster, Chair; Ronald Rae; Robert Olewine; Cindy Fetterolf; Cheryl Gee; Leonard Wilson, Esquire, Attorney; J. Craig Trostle, Jr., Zoning Administrator

Absent: None

Steno: Carol Beresh

Ms. Foster called the meeting to order at 7:10 p.m.

ACTION: Motion was made by Mr. Rae to approve the minutes of the March 20, 2008 meeting. Motion was seconded by Mr. Olewine and unanimously approved.

CASE # 1341 – REQUEST OF CLOTILDE & FRANK SEPULVEDA, 203 HIGHLAND DRIVE, ELKTON, MARYLAND FOR A SPECIAL EXCEPTION TO PERMIT AN IN-HOME OCCUPATION. THIS ACTION CONCERNS PROPERPTY LOCATED AT 203 HIGHLAND DRIVE, ELKTON, MARYLAND, TAX MAP 319, PARCEL 2344, ZONED R-3

Mr. & Mrs. Sepulveda were sworn in and introduced to the Board. Ms. Foster inquired as to the type of product which would be for sale. Mr. Sepulveda stated that they were hoping to begin a wholesale business for the making and sale of bread pudding. Ms. Foster asked if they had contacted the County Health Department concerning their request. Mr. Sepulveda stated that they are currently in the process of determining the guidelines required and that the County Health Department had referred them to the Division of Food Control at the State Health Department in Baltimore.

Ms. Foster asked if anyone other than themselves would be involved in the business. Mr. Sepulveda stated that eventually they hope to have their daughter involved.

Ms. Foster inquired whether any accessory buildings would be used for the business. Mr. Sepulveda stated that they would not be used.

Ms. Foster asked if they currently have any clientele. Mr. Sepulveda stated that they are moving gradually and deliberately through the process and they will focus their attention on clientele sometime after they have all their approvals in order.

Ms. Foster wondered if they have had any other businesses in the past. Mr. Sepulveda stated that they have never had a business before.

Ms. Foster asked if they will be producing any other products. Mr. Sepulveda stated that they wished to focus on this one item at first and then possibly branch out to others in the future.

Ms. Foster asked if they were considering other options if the Health Department did not approve their request. Mr. Sepulveda stated that they would seek to use an existing commercial kitchen at a church, etc.

Mr. Rae asked if they currently have a business license. Mr. Sepulveda stated that they are in the process of registering for their business license but that again they wanted to get their approvals first. Ms. Sepulveda added that they were told to complete the special exception process first.

Mr. Rae asked if their neighbors were aware of their potential business. Mr. Sepulveda stated that he has spoken with his neighbors concerning the business. He added that a number of them have tried samples of their product.

Ms. Foster entertained additional questions from the Board. There were none. Ms. Foster read the recommendation of the Planning Commission to approve the special exception.

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

MOTION: Motion was made by Mr. Rae to approve the special exception contingent upon meeting all requirements of the necessary regulatory agencies. The motion was seconded by Mr. Olewine and unanimously approved.

CASE # 1342 – REQUEST OF MSM INVESTMENTS, LLC, P.O. BOX 1425, ELKTON, MARYLAND FOR THE FOLLOWING VARIANCES: 1) VARIANCE TO EXCEED THE FLOOR AREA RATIO BY .65; 2) VARIANCE TO EXCEED THE MAXIMUM LOT COVERAGE BY 10%. OWNER PROPOSES TO CONSTRUCT A MULTI-STORY PROFESSIONAL OFFICE BUILDING. THIS ACTION CONCERNS PROPERTY LOCATED AT 144-148 WEST MAIN STREET, ELKTON, MARYLAND, TAX MAP 310, PARCEL 1387, ZONED C-1

Ms. Natalie Ricci of MSM Investments, LLC, Mr. Ronnie Carpenter of Carpenter Engineering and Mr. Dwight Thomey were sworn in and introduced to the Board.

Mr. Carpenter stated that they are pleased to be presenting this project which proposes the redevelopment of a dilapidated site of .4 acres and situated at the west end of Main Street. The site is zoned C-1 and lies within the Critical Area and IDA District. A portion of the site is mapped within the 100 year flood plain and it located within the Highway Corridor Overlay Zone. Currently the site is vacant of buildings but does have some building foundations, parking lot and some signs and remaining utilities on the site.

Previously there had been a two-story, 6000 square foot building situated along Main Street and along Water Street there was a 1250 square foot building (PJ's Ice Cream Parlor). They presented photographs of the property in different phases prior to and since the fire damage.

Mr. Carpenter stated that they are proposing a 21,000 square foot multi-story office building with parking under the building. Mr. Carpenter noted that there is a stair well on the side of the building and the ground floor would have an elevator but no offices. Mr. Carpenter stated that the existing parking would be reconfigured to create code compliance in aisle widths, parking stall dimensions and appropriate safety measures. He stated that they have been working with the Town to reduce the amount of nonconformity on this project.

Mr. Carpenter stated that they are requesting relaxation for the following: 1) Article 8, Section 9 – Floor Area Ratio – Proposing 1.2 rather than required 0.55; 2) Article 8, Section 9 – Lot Coverage – Proposing 95% rather than required 85%. He performed a desk top review of the parcels within the existing block and found that none of the parcels are currently compliant with either of these requirements.

Ms. Foster inquired about the green areas shown on the plat. Mr. Carpenter pointed out the proposed green areas which are in compliance with the ordinance requirements.

Ms. Foster asked if they knew the number of tenants that would be utilizing the building. Ms. Ricci stated that they are not confirmed at this point but if the space is broken up there would be approximately 2,000 sf per tenant. She stated that there is a possibility that one tenant would take the entire building.

Ms. Foster asked about signage for the building. Ms. Ricci stated that there would be directories and signage on the building. They intend to refurbish the existing sign off Howard Street and use it as a directory. She stated that they would be applying for a sign permit as finalizations are made. She added that there would probably be a sign noting 'Elkton Professional Arts Pavilion' unless the building is leased by one tenant and then their business name may be the signage.

Mr. Carpenter shared some of the land planning and environmental work being done. The site is in the IDA zone and additional property was purchased by the owner to provide more onsite parking. They will be in compliance with the parking requirements of the Town ordinance. From an environmental perspective they are reducing the occupancy within the flood way to zero with this proposed building. They are proposing, through disconnection of the roof drains for the building, parking underneath, and water reuse, a reduction in the pollutant load going to the Big Elk Creek by approximately 25%.

Mr. Thomey noted that the ordinance allows the Board to grant a variance if the site has unique features that would prevent the use of the property. He noted that the property is

within the flood plain at the rear of the lot and the contour of the property. In order to address these two concerns and address the pollutant levels they are proposing the parking on the ground floor and in order to make the project financially feasible they are asking that the Board consider approving the variances. He noted that this developer also made the renovations to the Elktowne Center Building at the intersection of North and Main Streets.

Mr. Rae asked about an application to MDE for the property. Mr. Carpenter stated that the joint application to build within the flood plain was made approximately three weeks ago.

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

MOTION: A motion was made by Mr. Rae to approve the variance for the Elktion Professional Arts Pavilion to allow a floor area ratio of 1.2. Motion was seconded by Ms. Gee and unanimously approved.

MOTION: A motion was made by Mr. Olewine to approve the variance for the Elktion Professional Arts Pavilion to allow lot coverage of 95%. Motion was seconded by Ms. Fetterolf and unanimously approved.

CASE # 1343 – REQUEST OF NICOLE SIMMONS, 164 HAUT BRION AVE., NEWARK, DELAWARE FOR A SPECIAL EXCEPTION TO PLACE A DAY CARE CENTER FOR UP TO 30 CHILDREN. THIS ACTION CONCERNS PROPERTY TO BE LOCATED BEHIND 151 EAST HIGH STREET, ELKTON, MARYLAND, TAX MAP 311, PARCEL 1221, ZONED R-O

Mr. Gary Slagle, Owner and Ms. Nicole Simmons were sworn in and introduced to the Board. Mr. Slagle stated that Ms. Simmons is interested in placing a day care center at his property at 151 East High Street and he is proposing to build a 2,300 square foot, two story building that would accommodate approximately 30 children.

He stated that the parking situation was of concern at the Planning Commission meeting and that they intend to provide adequate parking and traffic flow in order to alleviate any issues. He noted that he currently owns a day care center in New Castle County with 80 children and have not had any issues. He mentioned that the children are dropped off and picked up at different times of the day and felt it essential to address this issue to alleviate any concerns the Board may have regarding parking and traffic flow.

Ms. Foster asked the hours of operation for the day care. Ms. Simmons stated that the center would be open from 6:30 a.m. to 6:30 p.m. Mr. Slagle added that the parents work at different hours and therefore would be arriving at the center at different times in the am

and pm. Ms. Foster stated that parents would have to park and walk the children in rather than pull up and drop the children off. Mr. Slagle confirmed that this was the case.

There were questions about the plans submitted and whether the parking is depicted correctly. Mr. Slagle stated that the parking is correct and the building location, the only change would be the interior according to the use.

It was determined that the existing building would remain on the site and this building would be constructed behind it. Mr. Slagle stated that all the prior storm water issues had been addressed and approved through the Town's Planning Commission.

Ms. Foster asked if the play area will be fenced. Mr. Slagle stated that it would be fenced.

Mr. Rae asked when they are proposing to build. Mr. Slagle stated that if they are approved this evening the plans would be submitted as soon as possible.

Mr. Olewine inquired about the location of the proposed building. Mr. Slagle stated that the proposed building would be situated more to the rear of the site. The parking lots would be adjacent to one another.

Mr. Olewine asked if the entrance would be shared with Mr. Hermann's property. Mr. Slagle stated that the entrance for the existing building would be shared with the proposed building and that Mr. Hermann would have his own entrance to his property. Curbing would divide the two properties and serve as a deterrent to storm water flow.

Mr. Olewine asked about signage for the proposed building. Mr. Slagle stated that they would be placing signage and would go through the permit process in order to place the signage requested by the tenant.

Ms. Fetterolf asked about the number of employees for the day care. Ms. Simmons stated that there would be a total of 10 employees, five for the am shift and five for the pm shift. It was noted that the number of employees meets the state requirements for day cares.

Ms. Foster asked if a nurse would be present at the day care. Ms. Simmons stated that they are required to have a doctor on call.

Ms. Simmons stated that all of the requirements necessary through the State have been applied for and met. Ms. Simmons stated that although she has never run a day care center she has been an educator for 16 years working with children and has been employed in day care in Delaware.

Ms. Foster read the recommendation from the Planning Commission approving the request for the day care center proposal provided the employees park in the spaces closest to High Street.

Ms. Foster entertained additional questions from the Board and comments from the audience. There were none.

MOTION: A motion was made by Mr. Olewine to approve the day care center at 151 East High Street contingent upon receiving all permits and approvals from all appropriate regulatory agencies. The motion was seconded by Ms. Gee and unanimously approved.

CASE # 1344 – REQUEST OF WALTER JABLONSKI, 105 WEST VILLAGE ROAD, ELKTON, MARYLAND FOR A VARIANCE TO PLACE AN ACCESSORY STRUCTURE IN THE FRONT YARD. PROPERTY IS A CORNER LOT AND HAS TWO FRONT YARDS. THIS ACTION CONCERNS PROPERTY LOCATED AT 105 WEST VILLAGE ROAD, ELKTON, MARYLAND, TAX MAP 312, PARCEL 2305, ZONED R-2

Ms. Mary Jo Jablonski was sworn in and introduced to the Board. She stated that she is requesting to place a 12' x 24' shed in their rear yard which is considered a front yard since her property is located on the corner of West Village and Jarmon Roads.

There was some question as to the exact location of the shed and Ms. Jablonski stated that the truck which is currently located in the yard would be removed and the shed would be placed in that location between the house and the existing tree.

Ms. Foster asked if any changes to the yard were required to place the shed. Ms. Jablonski stated that no changes are required. She noted that the shed would have vinyl siding.

Ms. Foster asked if the gate in the fence would be used. She stated that the gate is used if they are entertaining or if supplies need to be delivered to the house.

Ms. Foster asked if the shed would be used as a garage. Ms. Jablonski stated that the shed would only be used for storage.

There was some discussion regarding other locations for the shed. It was determined that the front of the shed would be even with the chimney on the house.

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

Board of Zoning Appeals

4.17.08

Page 7 of 7

MOTION: A motion was made by Mr. Rae to approve the placement of an accessory structure in the front yard of a corner lot at 105 West Village Road. The motion was seconded by Ms. Gee and unanimously approved.

OLD BUSINESS. – None

NEW BUSINESS. – None

There being no further business to discuss Ms. Foster adjourned the meeting at 8:25 p.m.

Respectfully submitted,

Brenda Humphreys