

Meeting Minutes of the Board of Zoning Appeals

Tuesday, August 12, 2014

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, August 12, 2014 at 5:15 P.M. with the following members in attendance: Aaron Ryba, Joshua Lonon, Marshall Irby, Jim Davis, and Don Bramblett. David Scott Lewis was absent. Representing the Planning Department were Joshua Henderson and Julie Roland.

Roll Call

Mr. Ryba, the Chair, stated that public notice of this meeting was given twenty-four (24) hours in advance as required by the Freedom of Information Act. Any appeals from a decision or action of this body are limited to a request for pre-litigation/mediation or an appeal to the Circuit Court, to be filed within thirty (30) days after the decision of this Board in accordance with Section 603.6 of the City of Spartanburg Zoning Ordinance.

Roll call was taken – Five members of the now six member Board were present, constituting a quorum.

Approval of Agenda for the August 12, 2014 Meeting

Mr. Irby made a motion to approve the Agenda for the August 12, 2014 meeting, and was seconded by Mr. Lonon. The motion was unanimously approved by a vote of 5 to 0.

Disposition of the minutes from the July 8, 2014 meeting of the Spartanburg Board of Zoning Appeals

Mr. Davis moved approval of the July 8, 2014 Meeting minutes, with second by Mr. Lonon. The motion was unanimously approved by a vote of 5 to 0.

Old Business – None.

New Business:

VAR 14 2-02 - Request for Variance from Tim Satterfield with Coldwell Banker Commercial Caine, Agent, on behalf of Applicant, The Bargain Mill, LLC, on behalf of Nancy Beals, Owner. Variance to allow the applicant a deferment of the required parking facilities for a reasonable period of time. The Applicant is asking for six (6) month delay for his new business The Bargain Mill, LLC located at 1097 Union Street. The property is further identified as Parcel 106.00 on Spartanburg County Tax Map Sheet 7-17-05.

Mr. Henderson came forward and was sworn; and he submitted the meeting packets the Board Members had previously received including the reports, slides and presentation into Evidence as Exhibit A. He explained the applicant was seeking approval for deferment of required off-street parking spaces for a period of time not to exceed six months.

Mr. Tim Satterfield with Coldwell Banker Commercial Caine, Agent, came forward on behalf of Applicant, The Bargain Mill, LLC, on behalf of Nancy Beals, Owner; and was sworn. He informed the Board Members a lot of the new businesses locating on Union Street had a lot to do with the Rail Trail. The proposed building was a former cotton warehouse which was 30,000 square feet that was completely leased out, and the tenant had spent a tremendous amount of his own money trying to get the building ready. The City helped the applicant obtain a Temporary Certificate of Occupancy (TCO); and that his firm was trying to help get them open for business when the issue of parking requirements had come up because of the size of the building. The City was trying to work with them to reduce the number of spaces by using bike racks which would reduce it twenty percent; and that part of the parking lot already was already paved, and had been striped. They had nine (9) parking spaces now and would be adding twenty-four (24) spaces throughout the gravel parking lot with wheel-stops and would probably use railroad ties if approved, just to try and get a feel for how much parking they would actually need before it was finished. The proposed variance would give them six months to get all of that done.

Board Questions:

- Mr. Lonon asked Mr. Satterfield why they had to pave the parking lot. Mr. Satterfield said it did not have to be paved, but where they had striped was a paved area.
- Mr. Henderson said he would explain that when he finished his presentation.

- Mr. Bramblett asked how many total parking spaces would be needed.
- Mr. Henderson said he would explain all of that when he finished his presentation.

Mr. Henderson came forward again and said the property was located at 1097 Union Street, and the building itself was approximately 30,000 square feet; but the applicant would be utilizing no more than 15,000 square feet; and only 12,000 square feet of that would be for customer space, with 3,000 to be used as office space. He explained to the Board Members that according to Section 504, a retail use for a building not exceeding 399,000 square feet was required to have a minimum of three (3) parking spaces per one thousand (1,000) square feet of gross leasable space. Technically 15,000 square feet would be occupied by customers only. He explained Staff really did not have a section of the zoning ordinance that referenced the type of overstock merchandise that the store would sell, so they went with parking requirements for a retail use for a building not exceeding 399,000 square feet. He further explained according to Section 504, they would be required to have a minimum of three (3) parking spaces per one thousand (1,000) square feet of gross leasable space. Since they determined that only 12,000 of the 15,000 square feet would be used for customers, Staff decided to go with the requirements for 12,000 square feet. The applicant has put in asphalt against the building, and one of the requirements to get their TCO to get revenue coming in to the business was the requirement to put in seven (7) parking spaces which have been stripped out, and had one handicapped accessible and they did have accessibility in to the building. The rest of the property was gravel; and there was room to accommodate the rest of the twenty-four (24) spaces if approval was granted to defer to six (6) months time. There could be a need to bring in some additional gravel in order to make the parking lot more drivable, and so there was not any type of safety issue. He explained the wheel-stops would need to be done in accordance with our size requirements with a parking lot layout plan; and he said that had already been discussed with Mr. Satterfield and the petitioner. He said to answer Mr. Lonon's question regarding a paved parking lot, under the zoning ordinance if a parking lot was zoned I-1 or I-2, those parking lots did not have to be paved; and went off the zone, rather than the use.

Board Questions:

- Mr. Lonon asked Mr. Henderson about the issue of striping the parking spaces that had already been striped. Mr. Henderson explained that was the only striping that would be done. The rest of the parking spaces would be delineated by some type of wheel-stop. The ordinance did not specify what type of wheel stop could be used, but it had to be delineated in some form of fashion.
- Mr. Lonon asked why could they not go ahead and put in all the spaces at this time. Mr. Henderson said it was a financial situation.
- Mr. Lonon asked Mr. Satterfield what would be the cheapest scenario to go ahead and have all the parking put in now. Mr. Satterfield said probably \$5.00 each for twenty-four (24) railroad ties at Home Depot.
- Mr. Bramblett said you could purchase ten (10) in a bundle for \$100.00 on Highway 221.
- Mr. Lonon said he was all about helping out new businesses, especially on Union Street; but he wondered if the Board really had the authority regarding this type of variance; and he expressed his concerns regarding setting a precedence. Mr. Henderson explained according to Section 603.4 (6) of the Zoning Ordinance that a variance could be granted regarding parking deferment. He also conferred with City Attorney McCabe who agreed with his interpretation.

Mr. Ryba, the Chair suggested Mr. Henderson finish his presentation at this time.

Mr. Henderson said a TCO had been issued, and there were some additional things they had to do for the Building Department. The TCO was issued for thirty days with the condition parking would either need to be installed now or within six (6) months if the Board granted the request. Slides were shown and explained in detail in order to better illustrate the request.

[Editor's Note: the report the Board Members previously received included the Mandatory Written Findings for the Board to consider when reviewing a variance request and Staff's Analysis of Required Findings as follows:

- 1) *There are extraordinary and exceptional conditions pertaining to the particular piece of property* – There are not really extraordinary and exceptional conditions associated with this property and the request to defer the parking lot installation. However, if the variance is granted, the business owner will be given the opportunity to raise financial stability to be able to provide the required off-street parking spaces. They are providing seven (7) striped spaces adjacent to the building in the meantime, with one being handicap accessible meeting the dimension requirements for their customers.
- 2) *These conditions do not generally apply to other property in the vicinity* – There are a few other properties in the close vicinity that have the same concern with regards to the previous type of use being a warehouse use and not meeting the parking lot requirements. When developed, these properties will have to comply with the same requirements set forth in the parking standards of the City of Spartanburg Zoning Ordinance. If needed, they will be given the opportunity to submit a Variance Request to be heard by you, the Board.
- 3) *Because of these conditions, the application of the ordinance to this particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property* – The business is required to meet the intent of the Zoning Ordinance with regards to the amount of parking spaces for the type of use it is. Deferring the installment of the off-street parking spaces for the six (6) month time frame, would not restrict utilization of the property and allow the business to raise financial stability to afford the parking lot requirements.
- 4) *The authorization of a variance will not be of substantial detriment to adjacent property or to the general public good, and the character of the district will not be harmed by the granting of the variance* – The deferment of the required off-street parking spaces will not be a detriment to the adjacent properties, or to the general public since the existing gravel parking lot will remain intact until the addition of the required wheel stops and possible additional gravel to meet the requirements of the Zoning Ordinance.
- 5) *The Board does not find it necessary to attach conditions regarding the location, character, or other features of the proposed building, structure, or use to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.*

STAFF'S RECOMMENDATION

After review of the guidelines set forth in the City of Spartanburg Zoning Ordinance, the parking requirements for this type of use are determined off of the gross leasable floor space of the building. Staff is of the opinion that since the general public will only be able to occupy 12,000 sq. ft. of the total 30,000 sq. ft., and then the parking space requirements should be based off of that amount. This requires the business owner to provide thirty-six (36) off-street parking spaces. Currently, they have installed seven (7) parking spaces and will also install bike racks to bring the number of needed parking spaces down to twenty-four (24). The deferment of the installation of the required off-street parking spaces for the six (6) month time frame will not be a detriment to the surrounding properties, nor the general public. Therefore, staff is of the opinion that the Board approve the applicant's request for the six (6) month deferment on the installation of the wheel stops, and any other necessary requirements to meet the off-street parking standards as explained.

More Board Member Questions:

- Mr. Bramblett asked how many square feet was there in the proposed parking area, and how many square feet constituted a parking space. Mr. Henderson said he did not know the dimensions in the proposed parking area, but a parking space was nine (9') feet by eighteen (18') feet.
- Mr. Bramblett said he rode down to the site, and he too was all in favor of new businesses, but wondered if there was enough room for twenty-four (24) additional parking spaces. Mr. Henderson explained for any business inside the City limits, if they cannot accommodate the amount of off-street

parking spaces required on their property, they could go to another business property within 400' of their property and obtain a signed parking agreement if need be.

- Mr. Bramblett mentioned there was a big open ditch at the corner of the property that runs across the grass and he referenced the area on one of the slides. He wondered what was the plan for that ditch regarding drainage regarding having a parking space there. His concern was the banks of the ditch were high enough to trap a small car. He felt that area would need immediate attention regarding a drainage pipe. Mr. Henderson said drainage-wise, the City's Stormwater Manager would be involved; but the adding of gravel, he did not think would increase water runoff; and he would check with the Stormwater Manager.
- Mr. Bramblett felt the building owner should be responsible for providing a plan to take care of runoff. Mr. Henderson said he would make sure that there were no safety issues regarding the ditch.
- Mr. Ryba, the Chair said his understanding was, the only issue that was before them today was whether or not to defer the parking. He also said it was his understanding that when the time came that they had to show the parking layout, flatness, drainage, etc. the petitioner would need to submit a plan that would be processed by Staff.
- Mr. Henderson said what they were here to discuss tonight was just the deferment of parking for a period not to exceed six (6) months, and there would not be a formal Certificate of Occupancy (CO) issued until the parking had been addressed; and they would operate under a TCO until that time. If they get to six months and the parking had not been installed, he would work with the Building Official to go a different route. He further said Staff would not require full-blown drawings, but something to show how the parking lot would be laid out, and they would have to work with the Stormwater Engineer regarding those issues.
- Mr. Irby asked Mr. Henderson was he just asking the Board for a one-time six month deferment in order to get the business open. Mr. Henderson said that was correct; and it might not take six months to meet the requirements.
- Mr. Ryba said hypothetically speaking, if the petitioner moved forward within the six month time period, and pursued the request to have the parking requirements reduced based on the logic that was stated in the report regarding the amount of building that was accessible to the public as opposed to the gross area, would the applicant need to come back before the Board again. Mr. Henderson did not exactly understand what Mr. Ryba was asking.
- Mr. Ryba said it was his understanding per the report, the Code required the parking to be based off the gross leasable square footage. Mr. Henderson said he consulted with the City Attorney on that; and it was something that Staff was going to look into. He said the City Ordinance stated it was based on the gross leasable space; however, when looking at this request regarding the amount of square footage that was in the back that would not be used by customers, that he along with the City Attorney and Assistant City Manager conferred there would be no reason to require parking on space that no customers would enter. Again, it was something Staff was going to look into in the Ordinance, because gross leasable area may not exactly be the correct wording.
- Mr. Ryba asked if someone requested for a reduction in parking for whatever reason, would that be an issue that would need to come before the Board. Mr. Henderson explained that was also an option under Section 603.4, that there was an opportunity to seek a variance on the number of spaces required and a reduction of that.
- Mr. Bramblett asked Mr. Satterfield if the grassy/gravel area was compacted enough so that a large delivery truck such as an eighteen wheeler could maneuver enough without making ruts in the ground. Mr. Satterfield explained that it was.

Mr. Bramblett said he looked forward to coming to the store.

Mr. Ryba opened the public hearing and asked anyone that wished to speak in favor of the request to come forward. No one came forward. He asked anyone that was opposed to the request to come forward. No one came forward. Mr. Ryba closed the public hearing.

Board Deliberation:

Mr. Lonon made a motion to approve the request as presented; and he was seconded by Mr. Davis. The motion was unanimously approved by a vote of 5 to 0.

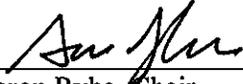
Staff Announcements

Mr. Henderson informed the Board Members they were informed this afternoon the Mayor and Council had appointed a new Board Member at their meeting last night, Michael Alston; and he would be invited to the next meeting.

Mrs. Roland said they would formally like to welcome New Board Member Don Bramblett to the meeting.

Mrs. Roland also informed the Board Members that a former Board Member, as well as a long time former City Employee, Charles Spann, had recently passed away.

There being no other business, the meeting adjourned at 5:55 P.M.



Aaron Ryba, Chair

Edited by Julie Roland, Administrative Assistant