

BOARD OF ZONING APPEALS

MINUTES OF THE MEETING OF MARCH 2, 2015

- MEMBERS PRESENT:** Joseph Caskey, Chairperson
Timothy Kundiger, Vice Chairperson
Jim Askins
Bob Gilmore
Chris Vanderbeck
- OTHERS PRESENT:** Jed Ballew, 2200 S Utica PL, Tulsa, OK 74114
John Bolte, 216 S Main Street, Joplin, MO
Michael Cerbo, 6162 S Willow DR STE 320,
Greenwood Village, CO 80111
Kent Coltharp, 1015 Bitner Court, Pittsburg, KS
Link Cowen 2200 S Utica PL, Tulsa, OK 74114
Larry Fields, 2301 S. Rouse, Pittsburg, KS
Jon and Ashlyn Heter, 2302 S Rouse, Pittsburg, KS
Don Orender, 3202 Grand Oaks CT, Pittsburg, KS
Daron Hall, City Manager
Bill Beasley, Director of Public Works
Troy Graham, Assistant Director of Public Works
Andrea Holtzman, Public Works Administrative Assistant

The Pittsburg Board of Zoning Appeals met on Monday, March 2, 2015, at 5:15 p.m., in the Municipal Court Room of the Law Enforcement Center located at 201 N Pine. Chairperson Joe Caskey called the meeting to order at 5:15 p.m. with five (5) members present.

The first order of business was approval of the minutes of the meeting of August 4, 2014. In this regard, Tim Kundiger moved, seconded by Chris Vanderbeck, that the minutes be approved as submitted. Motion carried unanimously.

Troy Graham welcomed new members Jim Askins and Bob Gilmore.

The third order of business was the election of a new Chairperson and Vice Chairperson to serve the 2015 term. In this regard, Joe Caskey moved for Tim Kundiger to serve as Chairperson. This motion was seconded by Bob Gilmore. The motion passed unanimously. Bob Gilmore moved seconded by Joe Caskey for Chris Vanderbeck to serve as Vice Chairperson.

The first order of business under Requests and Petitions was a **PUBLIC HEARING** held, as advertised, to consider the following:

**BOARD OF ZONING APPEALS
MINUTES MARCH 2, 2015
PAGE TWO**

Case No. 15-01- A request submitted by Rex Linville to consider a request for a 18 feet variance in front yard setback to permit a new residence to be located twelve 12 feet from the property line to be placed on the property located at 612 East 8th Street.

This case was tabled due to Rex Linville being ill and not being able to attend the meeting.

The second order of business under Requests and Petitions was a **PUBLIC HEARING**, held as advertised, to consider the following:

Case No. 14-02- A request submitted by Summerscape, LLC to consider a request for the amount of parking required for Residential Property Zoned RP-4 to be reduced from current requirements to permit there to be 1 parking space per micro-efficiency dwelling unit versus the required 1.5 parking spaces per micro-efficiency dwelling unit on the Summerfield property located at 2609 Springdale Street.

Chairperson Tim Kundiger opened the **PUBLIC HEARING** by stating the request and then asked the applicant to comment on behalf of said request. Troy Graham explained Summerfield would like to add a new complex.

John Bolte was present to speak in favor of the request. Mr. Bolte explained 114 micro-efficiency or studio apartment will be built. These apartments will be rented to a single occupant and thus is asking for a 1 to 1 ratio parking instead of 1.5 to 1 ratio. A hard count of tenants versus parking spaces was taken and he felt that a 1 to 1 ratio would be sufficient for what is going to be needed.

There being no one else to speak in favor of the request, Chairperson, Tim Kundiger asked if there was anyone else to speak against the request. There being no one against the request, Mr. Kundiger closed the public hearing.

There being no one present to speak in opposition to the request, Chairperson Tim Kundiger closed the **PUBLIC HEARING** for the request. The Board then considered the following factors:

**BOARD OF ZONING APPEALS
MINUTES MARCH 2, 2015
PAGE THREE**

1. Are there conditions, which exist in respect to the property or structure being considered which are different from other properties or building in the neighborhood, i.e. small lot size, unusual grade, easements, right of ways, etc.?

No. The future development is located on lot that has existing apartment buildings. The new structure is an infill building, which will complete the overall apartment complex.

2. Has such conditions or circumstances been created by the action or actions of the owner or applicant?

Yes. The applicant is wishing to construct a new apartment building that includes "micro-efficiency" units that are smaller in footprint than other standard units on the property are. This allows for more units in the building, which requires more parking per our zoning ordinance.

3. Are there special conditions or circumstances such that the strict literal interpretation of the provisions of the Zoning Ordinance will constitute unnecessary hardship upon the property owner represented in the application?

No. However, the developer would be required to either decrease the number of apartment units or increase the number of parking stalls available. In lieu of this, the developer has shown that their current load of tenants versus parking spaces is more than adequate and that increase in future parking stalls should suffice for the new structure. The developer has also included parking for bicycles on the property and introduced a bus stop area for the tenants.

4. Will the granting of a permit for the variance requested adversely affect the rights of adjacent property owners or residents?

No.

5. Will the granting of the variance requested confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands, structures, or buildings in the same district?

Yes. However, the developer has tried to make concessions in other areas to meet the parking demand of the future building.

**BOARD OF ZONING APPEALS
MINUTES MARCH 2, 2015
PAGE FOUR**

6. Will the granting of the variance requested adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare?

Staff Response – No.

7. Will the granting of the variance requested be opposed to the general spirit and intent of the Zoning Ordinance?

Staff Response – No. The parking regulations are set to meet the general demands of a certain zoned area from previous experiences and comparable cities. Depending on the design of the future units and the changes in the area, a more walkable community may lend itself to less available parking.

8. Is the variance being requested the minimum variance that would accomplish this purpose.

Staff Response – Yes.

The Board of Zoning Appeals considered all eight (8) factors involved. Based on these factors, Jim Askins moved, seconded by Joe Caskey, to approve the request as submitted. Motion carried unanimously.

A **PUBLIC HEARING** was held, as advertised, to consider the following:

Case No. 14-03- A request submitted by Mike Cerbo of Galloway on behalf of a future grocery/retail store to consider a request in the amount of required parking for a CP-2 Zoned property to allow for there to be 1 parking space per 250 square feet of structure versus the required 1 parking space per 150 square feet of structure on the property located at 2300 Block of South Rouse.

Chairperson Tim Kundiger opened the PUBLIC HEARING by stating the request and then asked the applicant to comment on behalf of said request. Mike Cerbo was present to speak in favor of the request.

**BOARD OF ZONING APPEALS
MINUTES MARCH 2, 2015
PAGE FIVE**

Troy Graham explained a new retail grocery store is making plans to build on the northwest corner of the intersection of Centennial and Rouse. Mr. Cerbo explained he is requesting a parking variance to allow the number of parking to be less than City Code requires. Mr. Cerbo explained the store would be on 5.13 acres and will have a fuel station. He explained the lower ratio is hopefully going to encourage more pedestrian use.

Jim Askins asked how many people would be working in the store at one time. Mr. Cerbo explained that a total of 90 jobs total but he wasn't sure how many people will be on a shift. He explained they would be encouraged to park in spaces further from the store.

Don Orender, 2305 S. Tucker Terrace, indicated he was not for or against the request. He asked if there would be any type of access from Tucker Terrace to this facility. Troy Graham explained there would be no access except from Rouse and Centennial.

Kent Coletharp, owns property on Ohio behind the property in question, also indicated he was not for or against the request. Mr. Coletharp asked if more land was able to be purchased in order to get more land in order to meet the parking requirements. He felt that the company should inquire about purchasing extra property.

There being no one else to speak in favor, Chairperson, Tim Kundiger opened the floor to anyone to speak against the request.

John Heter, 2302 S Rouse, asked if the request is in fact in the best interest of the public or just to bring in a business.

There being no one present to speak in opposition to the request, Chairperson Tim Kundiger closed the PUBLIC HEARING for the request. The Board then considered the following factors:

1. Are there conditions, which exist in respect to the property or structure being considered which are different from other properties or building in the neighborhood, i.e. small lot size, unusual grade, easements, right of ways, etc.?

No. This is a corner property located at Centennial and Rouse.

**BOARD OF ZONING APPEALS
MINUTES MARCH 2, 2014
PAGE SIX**

2. Has such conditions or circumstances been created by the action or actions of the owner or applicant?

Yes. The developer is wishing to construct a 40,000 square foot grocery/retail store and by zoning regulation, would require one parking space per 150 square feet of floor space. The developer has requested that this requirement be lessened to one parking space per 250 square feet of floor space due the current trends the developer is seeing at their other store locations.

3. Are there special conditions or circumstances such that the strict literal interpretation of the provisions of the Zoning Ordinance will constitute unnecessary hardship upon the property owner represented in the application?

No. The developer could choose to construct a smaller grocery/retail store on the property. The owner has agreed to provide a more "walkable" location in lieu of a variance for parking requirements.

4. Will the granting of a permit for the variance requested adversely affect the rights of adjacent property owners or residents?

No. However, the developer could provide a smaller grocery/retail store footprint and possibly be in line with the parking requirements.

5. Will the granting of the variance requested confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands, structures, or buildings in the same district?

Yes. Currently the parking requirements for a retail store over 4,000 square feet in size are one space per 150 square feet of floor space. The Board of Zoning Appeals has granted similar variances in the past.

6. Will the granting of the variance requested adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare?

No. The developer has shown that in other locations the amount of required parking is less in a retail/grocery facility of this size.

7. Will the granting of the variance requested be opposed to the general spirit and intent of the Zoning Ordinance?

No.

**BOARD OF ZONING APPEALS
MINUTES MARCH 2, 2014
PAGE SEVEN**

8. Is the variance being requested the minimum variance that would accomplish this purpose.

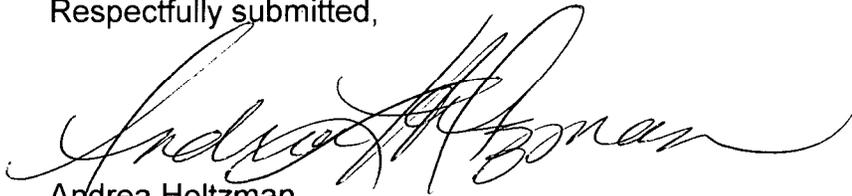
Yes. The developer could reduce the overall size of the grocery/retail store.

The Board of Zoning Appeals considered all eight (8) factors involved. Based on these factors, Bob Gilmore moved, seconded by Jim Askins, to approve the request as submitted. Motion carried unanimously.

The first order of business under NEW BUSINESS was the review of the Tentative 2015-2016 Board of Zoning Appeals schedule. After review, Joe Caskey moved, seconded by Bob Gilmore to approve the schedule as submitted. This motion passed.

There being no other business to be discussed, Joe Caskey moved, seconded by Bob Gilmore, to adjourn the meeting. Motion carried and the meeting adjourned at 5:55 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrea Holtzman", with a large, sweeping flourish extending to the right.

Andrea Holtzman
Public Works Administrative Assistant