

BOARD OF ZONING APPEALS

Meeting Minutes

Wednesday, April 16, 2014

Call to Order

Those members present: Prue Dana, Paul Brady, and Michael Schnipper.

Those members excused: Gary Meyer, and John Barnhart.

Staff members present: Sam Perry, and Steve McHugh.

Staff members excused: Amy Blankenship.

Adjudication Hearings*

[BZA-2014-03 325 W. Spring Street, Peak Health & Nutrition, variance to Section 1149.03\(e\), reduction in the parking space requirement, for installation of a free-standing sign, Andy Shea, Applicant, Agent](#)

Ms. Dana made motion to enter into Public Hearing BZA-2014-03. Mr. Schnipper seconded the motion. All were in favor.

Mr. Perry provided a PowerPoint presentation for a request to reduce the number of parking spaces for the installation of a freestanding monument sign in an existing asphalt parking lot. Mr. Perry note that no freestanding signs currently existed. Mr. Perry displayed an aerial photo of the property. Mr. Perry stated that he was not sure of what the code requirements were for parking at the time of the building being constructed. Mr. Perry described the parking, stating that currently there were 14 parking spaces with some located partially within the public right-of-way. Mr. Perry stated that the square footage of the building/use required 15 parking spaces. Mr. Perry displayed where the sign would be placed, stating that the sign would take up two of the parking spaces. Mr. Perry provided a survey showing the property line in the parking spaces. Mr. Perry displayed a photograph of how the sign would look on the property. Mr. Perry noted that a sandwich board would also be used but was not considered an additional sign. Mr. Perry stated that there have been no issues with parking on this site.

Mr. Perry reviewed the Decision Standards:

- a) A reasonable return can be obtained without the variance. Mr. Perry noted that the building was situated back further than the surrounding buildings.
- b) Is it a substantial variance? Mr. Perry noted that it would be a 13% reduction in parking with the variance request; one of the spaces was discounted because of being located in the public right of way. Mr. Perry referenced no reports of parking issues on that site; therefore, a 13% reduction was not substantial.
- c) Essential character of the neighborhood. Mr. Perry stated that the new sign would require drivers to become accustomed to the new sign.
- e) Knowledge of the zoning restriction; Mr. Perry stated that the City had no record of when this building was built.
- f) Property owner's predicament obviated through another means. Mr. Perry stated this was arguable since the predicament was self-created.

Mr. Perry reminded the BZA that they were not reviewing the sign, but the number of parking spaces. Mr. Perry also stated that the BZA had the ability to determine how the variance would be implemented.

g) Spirit and intent of the zoning requirement the BZA would need to deliberate further to see if removing parking spaces would hurt the public health, safety and welfare of vehicular access onto the property.

Mr. Brady swore in Mr. Andy Shea, applicant. Mr. Shea agreed with Mr. Perry's review of his request. Mr. Shea stated that the reduction of parking spaces would not affect the store or surrounding businesses. Mr. Shea felt that the variance

would help draw attention to the store since it sits somewhat behind neighboring properties.

Mr. Brady inquired City staff how the variance could affect the next tenant.

Mr. Shea explained he could leave the parking lot intact without disturbing anything and remove the sign should he vacate the premises.

Mr. Schnipper made motion to reconvene to regular meeting. M. Dana seconded the motion. All were in favor.

Mr. Schnipper felt that in looking at the Decision Standards he had no problem with the request. To Mr. Schnipper the only problem was having no idea when the structure was built and if it was grandfathered. Mr. Brady stated that the BZA would be increasing a nonconformity with the number of parking spaces. Mr. Brady expressed concern that down the road the next use, and taking the variance forward with it; as it could be a problem with parking in the future. Mr. Brady inquired about removal of parking spaces to Mr. Steve McHugh, Legal Counsel. Mr. McHugh stated that the BZA could grant the variance with conditions.

Discussion followed. The BZA inquired if it would be out of the BZA's purview to place a condition that the variance would expire should Mr. Shea vacate the premises. The BZA inquired if variances run with the land? Some of the BZA were concerned that the next tenant may require a higher vehicle volume.

Ms. Dana stated she tried to observe the volume of people parking at the site and stated it has not been full. Ms. Dana referred to the numerous signs along that particular block, and that she didn't see this sign as an issue. Mr. Brady responded that this was not before the BZA.

Decision Standards were discussed.

Is the variance request substantial? There was some disagreement expressed between Ms. Dana, Mr. Schnipper and Mr. Brady. Mr. Brady stated the request could be substantial. The BZA was agreeable that substantial justice would be done and that the variance would yield a reasonable return. Ms. Dana felt that the character of the neighborhood would not be affected as the sign was not unusual for the area. The variance could not be obviated through another method; and the spirit and intent would be observed.

Mr. Schnipper proposed placing conditions on the variance request.

Mr. McHugh suggested the BZA table so they could work through and not try to define conditions on the fly.

Mr. Schnipper expressed to the applicant that it may be of benefit for him to table his case since only three BZA members were present at the meeting. Mr. Brady explained to the applicant and he understood and was comfortable with tabling.

Mr. Brady noted that this Board understood the Applicant's needs, but the next use may need the parking spaces. Mr. Brady wanted the applicant to understand what the BZA was wrestling with.

Mr. Schnipper made motion to table BZA-2014-03. Ms. Dana seconded the motion. All were in favor.

[Approval of Minutes of the March 19, 2014 Regular Meeting](#)

Ms. Dana made motion to approve the minutes with one correction. Mr. Schnipper seconded the motion. All were in favor.

[Old Business](#)

There was none.

New Business

Discussion took place about rescheduling the May BZA meeting since Ms. Dana would not be available.

City Staff stated they would take care of rescheduling.

Adjournment

Mr. Schnipper made motion to adjourn the meeting. Ms. Dana seconded the motion. All were in favor.

The meeting was adjourned at 8:02 p.m.