

**BOARD OF ZONING APPEALS**  
**Meeting Minutes**  
**Wednesday, July 19, 2017**

**Call to Order**

Those members present: Paul Brady, Roger Ames, Prue Dana, Michael Schnipper, and Rosmarie Shaughnessy.

Those members excused: None.

Staff members present: Jung-Han Chen, and Stephen McHugh.

Staff members excused: Sam Perry.

**Approval of Minutes of the May 17, 2017 Regular Meeting**

Ms. Dana made motion to approve the BZA May 17, 2017 minutes as written. Mr. Schnipper seconded the motion. All were in favor. Ms. Shaughnessy abstained as she was not present.

**Adjudication Hearings**

**BZA-2017-08, [19 E. High Street, Starbucks, variance to Section 1151.05a\(2\)\(B\) indirect lighting, Tommy Reed, Atlantic Sign Company, Applicant/Agent](#)**

Mr. Ames made motion to enter into public hearing BZA-2017-08. Ms. Dana seconded the motion. All were in favor.

Mr. Brady swore in Mr. Chen.

Mr. Chen provided a review. Mr. Chen reviewed the sign illumination variance of the Starbucks located at 19 E. High Street. Mr. Chen displayed the current and proposed signage. Mr. Chen stated that the wall sign would be backlit. Mr. Chen referred to zoning code section 1151.07 sign illumination types and that backlit illumination did not fall under either types.

Mr. Chen reviewed the decision criteria and staff analysis.

Mr. Chen noted that the zoning code had not been updated since 2005, and technological advancements in recent years were not included in this code.

Mr. Brady inquired about the change of streetscape this sign could do. Mr. Chen replied that yes it was new but would not change the character of the Uptown. Mr. Brady noted that back in 2005 this really hadn't even been in existence.

Ms. Shaughnessy referred to the Fire, Police, Engineering, and Economic Development comments and evidence that the sign would have no relevance to the Uptown. Ms. Shaughnessy mentioned Mr. Kyger's comment of feeling the sign was classy. Ms. Shaughnessy inquired if Department reviews affected BZA decisions. Mr. Brady stated no. Mr. McHugh responded that department reviews were informational only. Mr. Chen referred to the 8 decision criteria the BZA must follow.

Mr. Pete, McCarthy, HAPC member, was sworn in. Mr. McCarthy stated that it was HAPC's jurisdiction and not the BZA's and felt the sign request should have come to HAPC first for them to decide. Mr. Brady responded that the BZA would take his comment under advisement.

Mr. Tommy Reed, Atlantic Sign Company, was sworn in. Mr. Reed stated that he was representing

Starbuck's. Mr. Reed responded that once BZA made their decision that he would be submitting an application to the HAPC. Mr. Reed stated that the sign letters were constructed of aluminum. Mr. Reed stated that the sign would look non-illuminated during the day. Mr. Reed continued with his description of the sign materials and noted that the sign would give off less illumination than the direct illumination type sign.

Ms. Dana inquired about the size of the new sign versus the existing sign. Mr. Reed responded that the letters on the new sign were smaller but they are adding the logo, so probably about the same but it won't look as big.

Mr. Ames inquired about the period of time the sign was lit. Mr. Reed described the sign having a photocell.

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

Mr. Brady inquired to staff and Mr. McHugh about the sign having gone to the BZA first instead of the HAPC, and if it should have been handled differently? Discussion followed including granting a variance and if there would be a contingency variance. Mr. McHugh said it would be a BZA condition in having HAPC approval. Discussed next HAPC meeting date.

Ms. Dana stated she would like to see a condition or contingency placed upon it. Mr. Brady shared he just wasn't sure. Discussion followed.

Mr. Schnipper inquired Mr. McHugh, there is nothing in the code as a requirement to go before HAPC first. Mr. Chen/Mr. McHugh responded correct. Mr. Schnipper stated he didn't want to set precedence. Mr. McHugh stated the BZA have options and that the Boards are separate from one another.

Mr. Schnipper made motion to approve BZA-2017-08, variance 1151.05a(2)(B) sign lighting based upon decision criteria that the variance request is not substantial and does not affect the essential character. Mr. Ames seconded the motion. All were in favor.

Ms. Dana stated that in looking at the esthetics, the sign offers some variety from what is Uptown now.

AYE: Mr. Ames, Ms. Shaughnessy, Ms. Dana, Mr. Schnipper, Mr. Brady (5)

NAY: None (0)

ABS: None (0)

**BZA-2017-09, [5299 College Corner Pike, variance to Section 1149.05\(a\)3 minimum off-street parking, Sheldon Jennings, Appellant, Agent](#)**

Mr. Ames made motion to enter into Public Hearing BZA-2017-09. Ms. Dana seconded the motion. All were in favor.

Mr. Chen was sworn in. Mr. Chen stated that the applicant was asking to waive the minimum off street parking stalls in the front yard. Mr. Chen noted that the property was located on the corner, having two front facades. Upon reading the code, it states that no more than 17 parking stalls are permitted in front of the principal structure. The proposal is to have 25, which exceeds the limit by 8. Mr. Chen continued that this case was somewhat unique since it has two street frontages and that the request was significant, but have to realize the two street frontages. Mr. Chen stated that staff believes there is sufficient evidence for the Board to grant the variance as requested.

Mr. Nick Hetherly was sworn in. Mr. Hetherly added that they may have misstated their request and that they were not asking for 25 spaces but one parking space above what would be allowed. Mr. Hetherly continued that he interpreted language 1159.13(15)A, definition for a front lot line, differently from City Staff and that he felt they were only asking for one more parking space for a total of 18. Also, Mr. Hetherly stated that the GB District permits restaurants, theaters, as permitted uses and that if this structure was not a retail store they would have been allowed even more in front of the structure.

Mr. Hetherly continued that he did agree with staff on some of their findings, however, but felt the code was ambiguous and asked that they reconsider their request.

Mr. Chen responded that Mr. Hetherly's argument was irrelevant, as staff's interpretation derived from what documents were submitted and that what was before the BZA was asking for 25 parking stalls.

Mr. Hetherly asked for legal staff to clarify. Mr. Chen responded that the GB District states that parking stalls in front of a principal structure to be no more than 70% of the minimum number of required parking stalls.

Mr. McHugh inquired that there would be 18 in front, but no parking on the sides of the building?

Discussion continued to clarify the location and number of parking. It was suggested to table the matter since it was apparent that City staff and the Applicant were not on the same page of the parking request.

Mr. McHugh inquired how many exact parking spaces were there. Mr. Hetherly responded that there were actually 35 spaces on the total lot. Ms. Shaughnessy inquired if parking was being proposed on 3 sides of the structure. Mr. Hetherly responded correct, for a total of 35 parking spaces.

Mr. Brady responded that they were dealing with things not having been applied for.

Ms. Dana made motion to reconvene public hearing. Mr. Schnipper seconded the motion. All were in favor.

Discussion followed. The BZA asked for staff input on what was presented and was not applied for.

Many of the BZA were strongly in favor of recommending tabling. All agreed.

Ms. Dana made motion to table BZA-2017-09, until next meeting. Mr. Schnipper seconded the motion. All were in favor 5-0-0.

### **Old Business**

Mr. Chen announced that he had met with the City Manager regarding the conversation with Mr. Schnipper and that he would be including in his proposed 2018 budget a part time zoning inspector for this round of budget discussion.

Mr. Schnipper inquired about the latest reinforcements of BZA decisions. Mr. McHugh responded that they have been looked into.

### **New Business**

Mr. Brady welcomed Ms. Shaughnessy to the BZA. Mr. Brady inquired about August cases.

**Adjournment**

Ms. Dana made motion to adjourn the meeting. Mr. Ames seconded the motion. All were in favor. The meeting adjourned at 8:14 p.m.