

MINUTES

HARRISBURG PLANNING COMMISSION REGULAR MEETING January 4, 2023

MEMBERS PRESENT: Joseph Alsberry, Chair
Vern McKissick, Vice Chair
Shaun E. O'Toole
Jamesetta Reed
Ausha Green
Anne Marek

STAFF PRESENT: Geoffrey Knight, Planning Director
Neil Grover, City Solicitor

CALL TO ORDER: 6:35 PM

APPROVAL OF MINUTES: Commissioner O'Toole moved, and Commissioner Reed seconded the motion, to approve the minutes from the November 9, 2022 meeting without corrections. The motion was adopted by a unanimous (5-0) vote (Commissioner McKissick was absent from the vote).

OLD BUSINESS:

- 1. Variance & Special Exception Application for Capitol Heights (Phase Two), located on 41 parcels across nine sites in the blocks generally bounded by Hamilton Street to north, North 5th Street to the east, Harris Street to the south, and Logan Street to the west, zoned Residential Medium-Density (RM), filed by Chris Bryce & David Long with Midtown Redevelopment, LLC, to request various zoning relief from use and development regulations required for the construction of four townhomes, 76 "Multifamily Dwelling" units, 9,557 square feet of commercial space, and 95 off-street parking spaces.**

Commissioner Alsberry noted that the Applicants had submitted a request to have the review continued until the February 2023 Planning Commission meeting; he asked whether action thus needed to be taken on the application. Mr. Knight stated that the commissioners should vote to continue the case until the following months' meeting.

Commissioner Green moved, and Commissioner Marek seconded the motion, to Table the request until the February 2023 meeting. The motion was adopted by a unanimous vote (5-0; Commissioner McKissick was absent from the vote).

- 2. Special Exception Application for MarketPlace Midtown, located on 51 parcels across eleven sites in the blocks generally bounded by Reily Street to the north, Fulton Street to the east, Sayford Street to the south, and James Street to the west, zoned Residential Medium-Density (RM), filed by Chris Bryce & David Long with Midtown**

Redevelopment, LLC, to request various zoning relief from use and development regulations required for the construction of eighteen 18 townhomes, 44 multifamily dwelling units, a food hall, 2,875 square feet of commercial space, and 84 off-street parking spaces.

Commissioner Alsberry noted that the Applicants had submitted a request to have the review continued until the February 2023 Planning Commission meeting; he asked whether action thus needed to be taken on the application. Mr. Knight stated that the commissioners should vote to continue the case until the following months' meeting.

Commissioner Green moved, and Commissioner Marek seconded the motion, to Table the request until the February 2023 meeting. The motion was adopted by a unanimous vote (5-0; Commissioner McKissick was absent from the vote).

NEW BUSINESS:

3. Variance Application for 1900 State Street, zoned Residential Medium-Density (RM), filed by John Cassiano with Friendship Automotive and Cassiano Properties, to install a new wall sign larger than permitted by right in the RM zoning district.

Mr. Knight gave a synopsis of the report, recommending Approval with Conditions; the conditions were that:

1. All vehicles stored in the public right-of-way will be removed, with curb stops and other physical obstructions installed on-site to prevent future incursion of vehicles into the right-of-way, and especially along required pedestrian routes.
2. The proposed wall signage will not be illuminated, to ensure the minimum deviation from the signage regulations in the Zoning Code.

The case was represented by John Cassiano with Cassiano Properties and Friendship Automotive (the property owner), 5546 Edsel Street, Harrisburg, PA 17109.

Commissioner Alsberry asked the Applicants whether the conditions in the case report were acceptable; they confirmed that they were.

Commissioner Alsberry stated that he had no questions regarding the project, and asked whether any of the commissioners had comments or concerns about the project.

Commissioner McKissick stated that it was a straightforward request and he had no questions.

Commissioner O'Toole noted that the four-square-foot sign limitation for properties in the RM district was unreasonable and should be reconsidered moving forward.

Commissioner Reed and Commissioner Green stated that they had no questions.

Commissioner Marek concurred that the application was straightforward and agreed with Commissioner O'Toole regarding the need to update the signage regulations. She stated that she wasn't sure there was any signage on the subject property.

Commissioner Alsberry asked if there was anybody for or against the project. There were no comments.

Commissioner O'Toole moved, and Commissioner Marek seconded the motion, to Approve the request with Staff Conditions. The motion was adopted by a unanimous vote (6-0).

4. Special Exception Application for 2626 Derry Street, zoned Residential Medium-Density (RM), filed by Brent Mosley with Bang Bang Fitness, LLC, to establish a "Fitness Center" use on-site and to request relief from the off-street parking requirements.

Mr. Knight gave a synopsis of the report, recommending Approval with Conditions; the conditions were that:

1. The property owner must remove the free-standing signage in the front yard which was installed without permits and without City approvals sometime between July 2017 and August 2019, as well as other non-conforming signage on-site.
2. The property owner must remove the unauthorized curb cuts and replace the curbing along South 27th Street to re-establish an ADA-compliant sidewalk along the eastern frontage of the property between Derry Street and Raleigh Street. The side yard and public right-of-way were paved over without City approval to create illegal parking spaces, and vehicles parked in this area completely block pedestrian access to the sidewalk.

The case was represented by Brent Mosley with Bang Bang Fitness (the lessee), 2445 Derry Street, Harrisburg, PA 17111.

Commissioner Alsberry asked the Applicants whether the conditions in the case report were acceptable; they confirmed that they were. He stated that he understood the Planning Bureau's condition regarding the unpermitted parking in the side yard, and noted that he wasn't responsible for that and that the property looked like that when he signed the lease. He stated that his business was not open to the general public, and that he only had a couple clients on-site at most. The Applicant stated that the neighbors liked him and supported his business. He stated that he was not aware of the zoning requirements to establish the business and the regulations regarding signage.

Commissioner Alsberry asked Planning Bureau staff whether the property owner could address the parking issue; Mr. Knight stated that he had the contact information for the property owner, and could contact them directly regarding addressing the illegal side yard parking. He stated that the parking issue and the unpermitted free-standing sign in the front yard predated the current property owner, and noted that it was a not uncommon occurrence to have a property sold with non-conforming aspects that then had to be addressed by the new owner.

Commissioner Alsberry noted that the Planning Commission was generally concerned with the provision of appropriate parking and that while the Applicant was not responsible for addressing the side yard parking, it was an outstanding issue related to the property.

Commissioner Alsberry asked whether any of the commissioners had comments or concerns about the project. Commissioner McKissick noted that addressing the conditions in the case report was generally something that was out of the Applicant's control. He stated that the proposed use would be less intensive than a convenience store and thus was appropriate for the site. Commissioner McKissick asked where the Applicant's business was previously located; he stated that he had operated out of his home.

Commissioner O'Toole asked how many clients would be on-site at any one time; the Applicant stated that he generally limited his appointments to one or two people, and sometimes had couples working out together. Commissioner O'Toole stated that he was in favor of the request.

Commissioner Reed stated that she had no questions.

Commissioner Green stated that the proposal seemed straightforward and was a good use for the property, and that she would be voting in favor of the request.

Commissioner Marek stated that she had no issues with the proposal, but noted that the conditions in the Planning Bureau's case report needed to be addressed by the property owner and were not related to the proposed use itself, and stated that it wasn't fair to make the Applicant's request conditioned on actions the property owner needed to take. Mr. Knight noted the side yard parking issue was relevant because the request involved a Special Exception for relief from the off-street parking requirements, and that if parking couldn't be provided on-site, the commissioners should consider whether on-street parking was sufficient; he noted removing the curb cut would provide room for approximately three spaces along South 27th Street.

The Applicant noted that there was a resident living in the upper floors of the building, and stated that some of the vehicles parking in the side yard belonged to that household.

Mr. Knight noted that the Zoning Hearing Board (ZHB) could determine whether the illegal parking situation was relevant to the request, and thus whether it needed to be addressed as a condition of the Applicant's request. He also noted that he would be reaching out to the property owner in advance of the ZHB meeting to ascertain whether the issue could be addressed independent of the current application review.

Commissioner O'Toole asked whether New Year's was good for the Applicant's business, given that resolutions to get in shape or go to the gym were common. The Applicant stated that while people often made a resolution to get in better shape, he often waited until March to confirm which clients would be continuing with that commitment.

Commissioner Alsberry asked if there was anybody for or against the project. There were no comments.

Commissioner Green moved, and Commissioner Reed seconded the motion, to Approve the request with Staff Conditions. The motion was adopted by a unanimous vote (6-0).

5. Variance Application for 3232 North 2nd Street, zoned Residential Medium-Density (RM), filed by Phillip Long & David Hooke with Alkaline Properties, LLC, to formalize an existing Accessory Dwelling Unit (ADU) that will be larger than permitted per the Specific Criteria of the Zoning Code.

Mr. Knight gave a synopsis of the report, recommending Approval.

The case was represented by Phillip Long with Alkaline Properties, LLC (the property owner), 206 West First Street, Boiling Springs, PA 17007.

Commissioner Alsberry asked the Applicant whether he had anything to add to the Planning Bureau's case report, and they stated that they did not.

Commissioner Alsberry asked whether any of the commissioners had comments or concerns about the project. Commissioner McKissick stated that he didn't have any questions; he noted that Planning Bureau staff indicated the non-conforming use was in operation for twenty years, but that the building addition had been constructed approximately sixty years ago.

Mr. Knight noted that the issue was brought to the Bureau's attention when the Applicant sought to purchase the property, and wanted to know whether it could be operated as two units. He noted that the City's records indicated that the property was a single unit and that communication with the Codes Administrator determined that an additional unit had been created sometime in the early 2000s; he stated that this was based on a site inspection during which a Codes officer noted that a second unit had been created without City authorization. Mr. Knight noted that because this was the first Accessory Dwelling Unit (ADU) proposal that was submitted through the ZHB review process, he wanted to ensure that the proposal received a proper review to formalize the establishment of the unit. Commissioner McKissick concurred that such a process would establish a precedent for future reviews.

Mr. Grover stated that the implied existence of the unit for twenty years might create some ambiguity on whether the zoning relief request was necessary to permit the proposed use; he stated that a term called "zoning by estoppel" might apply wherein the municipality might not be able to compel compliance if they had known about a violation for twenty years. Mr. Grover recommended that the Planning Commission approve the request, and stated that his office would research the issue ahead of the ZHB meeting. He stated that he understood the Planning Bureau's intention was to ensure the use conformed with the current Zoning Code, but that he wasn't sure what regulations were in place when the use was presumably established. Mr. Knight stated that he could review the property's designation under the former Zoning Code and the allowable uses, but that he suspected the property was in a zoning district that only permitted single-family dwellings based on the character of the surrounding neighborhood.

Mr. Grover noted that a recent court case regarding a project in a nearby municipality on the West Shore was based on a municipality's prior knowledge of an existing issue with a property. He stated that he had only recently been made aware of the case, and hadn't been able to research the specifics.

Commissioner O'Toole asked who had owned the property in 1961 (when the building addition appears to have been constructed); Mr. Knight stated that the County's ownership records usually did not go back further than the 1990s.

Commissioner Reed stated that she had no questions.

Commissioner Marek stated that she had no questions.

Commissioner Alsberry asked if there was anybody for or against the project. There were no comments.

Commissioner O'Toole moved, and Commissioner McKissick seconded the motion, to Approve the request. The motion was adopted by a unanimous vote (6-0).

6. Lot Consolidation & Land Development Plan Application for 1520 North 6th Street ("the Savoy"), zoned Commercial Neighborhood (CN), filed by LeSean & Daphne McCoy, to consolidate the various lots comprising the project site into a single parcel which will accommodate construction of a four-story, mixed-use development featuring commercial space on the first floor and 48 residential apartments above, 10 of which will be affordable, along with associated site and access improvements including a 45-space accessory parking lot.

Mr. Knight gave a synopsis of the report, recommending Approval with Conditions; the conditions were that:

1. The Applicant is required to receive a Certificate of Qualification pursuant to Chapter 12-101 of Title 12, Affordable Housing Certification prior to recording the Lot Consolidation & Land Development Plan with the Dauphin County Recorder of Deeds.
2. The Applicant will reconstruct or install new, ADA-compliant sidewalks along the northern, eastern, and western frontages of the development; the Planning Bureau recommends that the project retain the full width of the existing sidewalks along Harris Street and North 5th Street. Additionally, the Applicant should ensure that the proposed curb cuts to the rear parking area use a driveway design that elevates to the height of the surrounding sidewalks.
3. The Applicants will coordinate with the Department of Public Works to confirm the appropriate size and location of refuse collection on-site, and update the billing accounts to reflect the new use.
4. Any new signage to advertise businesses in the proposed first-floor commercial spaces will be in conformance with the applicable regulations of the Zoning Code or, if not, will receive approval for a zoning relief request, as necessary, from the Zoning Hearing Board.
5. The Planning Bureau recommends that any bicycle parking areas on-site be sheltered by awnings and/or include secured, interior racks.

The case was represented by Jonathan Bowser with Steel Works Construction (the developer), 430 North Front Street, Wormleysburg, PA 17043.

Commissioner Alsberry asked the Applicants whether the conditions in the case report were acceptable; they confirmed that they were. Commissioner Alsberry asked whether the Applicant had anything to add to the case report; he stated that he did not.

Commissioner Alsberry stated that he had no questions, and recounted that a business had been operating on-site for decades. He stated that he felt that it was a great project for the neighborhood.

Commissioner Alsberry asked whether any of the commissioners had comments or concerns about the project.

Commissioner McKissick stated that he appreciated the project was well-researched and did not require the approval of numerous Variances and Special Exceptions.

Commissioner O'Toole concurred with Commissioner McKissick, and stated that he felt it was a great project.

Commissioner Reed inquired about the sizes of the units. The Applicant stated that the project involved one- and two-bedroom units. He referenced the floor plans drawings and noted that the first floor included commercial space, the leasing office, and a fitness center; he noted that the second through fourth floors would feature studio, one-bedroom, and two-bedroom units, ranging from 432 square feet to 941 square feet. The Applicant noted that there would also be elevator and stair towers to a rooftop amenity for residents and, potentially, for the general public.

Commissioner Green stated that she was looking forward to the project being completed.

Commissioner Marek stated that she felt it was a well-done engineering design that was easy to understand. She concurred with previous commissioners' statements regarding the simplicity of the review and the lack of multiple zoning relief requests. She stated that she felt it would be a great project for the neighborhood.

The Applicant stated that they had recently completed asbestos abatement ahead of demolishing the buildings on-site, and that they were hoping to start on demolition within thirty days.

Commissioner Marek asked whether the Applicant had received comments regarding the project from Capital Region Water (CRW). He stated that they had begun coordination regarding the capacity to serve determinations, which was necessary to confirm that the existing utility connections were sufficient to meet the needs of the building.

Commissioner Alsberry stated that he appreciated the project provided a significant amount of parking on-site.

Commissioner Alsberry asked if there was anybody for or against the project. There were no comments.

Mr. Grover noted that the submitted application referenced the project applicants (not their representative in attendance at the meeting) as being “Equitable Owners” and asked whether the site was held under unified legal title. The Applicant stated that the project applicants owned the majority of the parcels outright, that there were a few other parcels which they were under contract to purchase from the Housing Authority, and that there were a couple other parcels owned by the Vartan Group and the project applicants as “equitable owners.” Mr. Grover noted that City Council would require the parcels comprising the site to be consolidated under single ownership before the plan sets could be recorded.

Commissioner McKissick moved, and Commissioner Marek seconded the motion, to Approve the request with Staff Conditions. The motion was adopted by a unanimous vote (6-0).

OTHER BUSINESS:

Commissioner Alsberry asked Planning Bureau staff whether there was any other business to discuss; Mr. Knight stated that there was not.

Mr. Grover referenced a Street Vacation request for the Brookwood Commons project that had been denied by City Council in 2021, and noted that the project had been initially approved by the Planning Commission approximately eight years ago [note: this occurred approximately ten years ago in 2013]. He noted that the City had been served recently with a new lawsuit by the Applicants (SkyNet) concerning City Council’s denial of the proposal. Mr. Grover explained that the lawsuit proposed a new approach to consideration of the rights-of-way and how it would impact the project timeline and status.

Mr. Grover stated that the Applicants had requested a number of continuances over the years, and noted that the project had originally been approved under the prior Zoning Code. He stated that if the Applicants’ legal strategy was successful, they would likely need to restart the zoning and land development process over and thus present a new application to the Planning Commission. Mr. Knight clarified the project location and noted that the original review predated the tenure of some of the current members; Mr. Grover noted that it predated his tenure with the City as well.

Mr. Grover stated that the property had initially been owned by the School District and that the Applicants had proposed a large multifamily development project on-site; he reiterated that they had delayed the project many times and City Council eventually rejected the application based on the Applicants’ actions. Mr. Grover reiterated his belief that if the Applicants were successful, the project would need to be resubmitted through the formal process and be reviewed by the Planning Commission and City Council.

Commissioner Alsberry asked whether any of the commissioners had any other comments or issues they wanted to raise. Commissioner Marek stated that she had read the Administration had hired a City Engineer. Mr. Grover confirmed that he would be starting at the end of the month. She asked whether that individual would be working with Dawood Engineering, the consultants who were functioning as the acting City Engineer while the position was vacant. Mr. Grover stated that the City’s relationship with Dawood would change somewhat, noting that they were

functioning under and existing contract with the City. He noted that the City had open contracts with three local engineering firms to provide a variety of services for the City.

Commissioner Green stated that Dawood would be functioning in an advisory capacity as the new City Engineer was brought up to speed on the various issues under his purview.

Commissioner Marek inquired about the Planning Bureau's progress on finding a Deputy Planning Director; Mr. Knight noted that the position was still posted and the Bureau was looking to develop a larger pool of acceptable candidates. He noted that submission volume was usually lower during the holiday season, and that he hoped to receive a higher volume of submissions in 2023. Mr. Knight noted that the Finance Director had authorized more money for the salary, which he hoped attracted more candidates.

Commissioner Alsberry noted that there were two members of the public still in attendance and inquired as to the reason for their attendance. They stated that they were interested members of the public and were curious about the Planning Commission review process and the applications to be heard at the current meeting.

ADJOURNMENT: 7:23 PM

Commissioner O'Toole moved, and Commissioner Green seconded the motion, to adjourn. The motion was adopted by a unanimous vote (6-0).