

**MINUTES OF THE MEETING OF THE
CITY OF SEAFORD BOARD OF ADJUSTMENT AND APPEALS**

October 7, 2020

12:00 p.m.

Mayor David Genshaw called the meeting to order with Charles Anderson, City Manager and City Solicitor, Daniel Griffith in attendance. Mike Bailey, Building Official was also present.

Mayor Genshaw called for a motion to approve the minutes of the Board of Adjustment meeting held on August 5, 2020. City Manager, Charles Anderson, made a motion to approve the minutes. City Solicitor, Daniel Griffith, seconded the motion; motion so passed with all present voting in favor.

Mayor Genshaw then turned the meeting over to Mike Bailey, Building Official.

Mr. Bailey presented **Case No. V-07-20: BC Investments, aka WalMart**, 22899 Sussex Highway, Tax Map and Parcel 331-6.00-4.01, seeking a special exception in accordance with Section 15-31 (2) of the Municipal Zoning Ordinance to place ten trailers on a grass area behind the store and four trailers in the parking lot on the south side of the store for layaway and seasonal merchandise.

Mr. Bailey stated that this is a request received every year from WalMart during this time of the year and that the trailers are not placed anywhere that blocks parking and/or fire lanes.

Mr. Bailey also stated that Jacob Hayes, Walmart's store manager was present for any questions.

Mayor Genshaw asked if the requested amount of trailers is the same as it has been in previous years.

Mr. Hayes stated that the request is for less trailers, as they are utilizing an offsite warehouse for storage as well.

Mayor Genshaw solicited any questions from the Board members;

City Manager, Charles Anderson, asked if the referenced trailers will be placed in the same areas as previous years.

Mr. stated yes.

City Solicitor asked if there was any differences between the current request and the request in previous years besides the difference in number of trailers.

Mr. Hayes stated no difference except for the four trailers that will be placed on the side of the building.

City Manager, Charles Anderson, asked if there have ever been any complaints in past years in regards to the trailers.

Mr. Bailey stated no, there have been no complaints and the trailers are typically gone prior to Christmas.

With no further questions from the board members, Mayor Genshaw solicited any questions from the public; there were none.

Mayor Genshaw called for a motion. City Solicitor Griffith made a motion to approve the special exception request to place fourteen (14) storage containers, behind the building and south side parking lot for holiday merchandise and layaway storage, located at 22899 Sussex Highway, TMP # 331-6.00-4.01 for a 120-day period in compliance with Code Section 15-40A. City Manager Charles Anderson, seconded the motion. Motion so passed with all present voting in favor.

Mr. Bailey presented **Case No. V-08-20: Brad Taylor, on behalf of TS Property LLC**, property owner of 176 Venture Drive, Tax Map and Parcel # 331-5.00-004.22, is seeking a variance from Article 4, Division 1 M-1 Light Industrial District Section 15-50 Uses by Right to permit a business place of a use that will up-fit vehicles.

Mr. Bailey stated that the request is for a use variance, because the Use by Right is not listed in M-1 for the requested use that Mr. Taylor is proposing.

Mr. Bailey stated that Mr. Brad Taylor was present to answer any questions and also to explain more about the proposed business.

Mr. Taylor stated that they up-fit vehicles and have been doing so since 2015. They currently do the work in a shop at Mr. Taylor's property, but have outgrown the space. By bringing this business into the City limits he hopes to make it more accessible as well as better relations with the City. Mr. Taylor explained that his customers, including police, paramedics, etc. will purchase a stock vehicle and then bring it to Mr. Taylor to be up fitted for their professional needs. They currently work with Sussex County Paramedics and have been for about four years and are looking to expand with other manufacturers throughout the Country and will need a larger facility and also a commercial address.

Mayor Genshaw solicited any questions from the board members;

City Solicitor, Daniel Griffith, asked what the current hours of operation are.

Mr. Taylor stated that they don't currently have set hours. They work in the evenings and also when a customer calls and has an emergency they will work at that time. His hopes are to be established in a commercial facility, hire additional staffing and at that point be able to work 8 or 9 a.m. to 5 p.m. and some weekends.

Mr. Taylor also mentioned that all of the work would be indoors. However, if they did need to work outside or store any vehicles outside of the building, they would consider fencing in the area to keep it secure and also unseen by neighbors, etc.

City Solicitor, Daniel Griffith, asked about the level of noise that may come with the discussed work as well as the occurrence dust, dirt and particles that may be caused.

Mr. Taylor stated that the only particles that would occur are those that would be from cutting metal or using a grinder; the same as what would be used in a residential garage. The most noise that would be heard would be a running vehicle or if installing a horn; that would be heard during a test, but is done within a few seconds and then would be turned off.

Mayor Genshaw asked Mr. Bailey to confirm the location of building where the proposed business will be.

Mr. Bailey stated that it is in the Ross Business Park, across from the current FedEx building.

With no further questions from the board members, Mayor Genshaw solicited any questions from the public; there were none.

Mayor Genshaw called for a motion. City Solicitor Griffith made a motion to approve the variance request from Article 4, Division 1 M-1 Light Industrial District Section 15-50 Uses by Right to permit a business place of a use that will up-fit vehicles, to be located at 176 Venture Dr. Tax Map and Parcel # 331-5.00-004.22. City Manager Charles Anderson, seconded the motion. Motion so passed with all present voting in favor.

Mr. Bailey presented **Case No. V-09-20: RMAB LLC.**, property owner of vacant lot on Shipley St., Tax Map and Parcel # 531-13.06-41.00, is seeking a variance from Article 2, Division 1 R-1 Low Density Residential District Section 15-15 (1) & (2) Area and Bulk Regulations to subdivide the existing lot into two parcels.

Mr. Bailey stated that the property did receive a favorable recommendation to Council from the Planning and Zoning commission to rezone the property to R-1 from C-2, so he has started the process of the rezoning. Mr. Bailey also stated that, Kevin Thawley, property owner, was present to answer any questions.

Mayor Genshaw asked if Mr. Thawley was planning on building two single family homes on the parcels.

Mr. Thawley stated yes.

Mayor Genshaw then asked if the homes will be homeownership or rentals.

Mr. Thawley stated they will be homeownership. He also stated that they have built similar homes within City limits and that they are nice built homes, include granite counter tops, amongst other upgraded fixtures.

Mayor Genshaw solicited any questions from the board members;

City Manager, Charles Anderson, confirmed that this request is made due to the lot frontage.

Mr. Thawley stated yes. The current parcel is approximately 100' x 99.81' in depth. The survey for the parcel divided into the two, would make each new parcel will be 4990 sq. ft. with 50'ft. frontage.

City Manager Charles Anderson stated that the required frontage for R-1 is 75'ft.

Mr. Thawley stated yes, it would not meet the requirements for R-1, however the property is surrounded by other properties zoned R-3 which do allow a 50' street frontage. He also noted that there are approximately 15-18 properties that surround the referenced parcel that all have 50' frontage.

City Manager, Charles Anderson, stated that yes, Mr. Thawley was correct in that statement so by having the two parcels with that frontage it would not be out of the character for that area.

Mr. Thawley agreed and stated that they will be able to meet all of the other requirements for an R-1 zoning.

With no further questions from the board members, Mayor Genshaw solicited any questions from the public; there were none.

Mayor Genshaw called for a motion. City Solicitor Griffith made a motion to approve the variance request from Article 2, Division 1 R-1 Low Density Residential District Section 15-15 (1) & (2) Area and Bulk Regulations to subdivide the existing lot, located on Shipley St., Tax Map and Parcel # 531-13.06-41.00, into two parcels. City Manager Charles Anderson, seconded the motion. Motion so passed with all present voting in favor.

Mr. Bailey presented **Case No. V-10-20: Dontri Bolden**, property owner of 718 W Ivy Drive, Tax Map and Parcel # 531-10.17-112.01, is seeking a variance from Section 15-13 (a) (1) (E) Accessory Uses in an R-1 Low Density District of the Zoning Ordinance to have a barbershop business at the above referenced property.

Mr. Bailey stated that Mr. Bolden was present for any questions that the board members may have and also for Mr. Bolden to give the members and the public a brief description of the desired barbershop he would like to have.

Mr. Bolden stated that he has been a barber for over 30 years; sole proprietor. He stated that being in business for yourself has a lot of costs associated with it, especially because he is renting a facility in Maryland, so he has the additional costs of rent, utilities, and travel expenses, etc. along with his house and utilities at the referenced property. Mr. Bolden stated that he has had some issues with a gentleman down the street over the last few years, including, egging his house,

vandalizing his property, amongst other things, and it has made it hard on him and his family that is home, for him to work outside of the home and also to be in Maryland. His hopes are to use the space that he already has available in his home to cut the costs of having rent, utilities, etc. and utilize those that he already has at his house and also to be able to be home with his family and feel more secure in doing so.

Mayor Genshaw solicited any questions from the board members;

City Manager, Charles Anderson, asked Mr. Bolden what his proposed hours of operation would be.

Mr. Bolden stated that he would take appointments, Thursday 9a.m. - 5 p.m., Friday 7a.m. -3 p.m. and Saturday 5a.m. -11 a.m.

Mr. Anderson then asked how many clients Mr. Bolden would anticipate seeing during those allotted times.

Mr. Bolden stated that he would work 20-25 hours per week and each week would vary as far as clients, but approximately 35 clients total.

Mr. Anderson also stated that given the restrictions related to the Covid pandemic, barbershops are required to have appointments; will you require appointments once those guidelines are lifted.

Mr. Bolden stated yes, he will only see clients by appointment only.

Mr. Anderson asked where the customers will park.

Mr. Bolden stated that he has a driveway that will allow for parking of two vehicles.

Mr. Anderson confirmed that the off-street parking; Mr. Bolden's driveway, will accommodate a customer's car as well as Mr. Bolden's car.

Mr. Bolden agreed.

City Solicitor, Daniel Griffith, asked if there will be any signage or advertisement of the barbershop on the property.

Mr. Bolden stated no.

Mayor Genshaw solicited any questions from the public;

Mrs. Tylicia Bolden, property owner of 718 W Ivy, stated that Mr. Bolden was her husband and she would like to stated that as her husband had mentioned, their hopes for the barbershop being at their residence is to allow them to feel more safe with him being on the property. It also allows them to save money on added expenses that come from renting a space. Mrs. Bolden also stated that, her mother and grandson are in the home, so her husband would have clients by appointment only, to avoid having a lure of people in and out of their home.

Mr. James Blizzard, property owner of 720 W Ivy Dr., came forward to voice his concerns. Mr. Blizzard stated that his biggest concern was that the entrance to the barbershop would be ten feet from his driveway. He also stated that he had other concerns in regards to things at Mr. Bolden's property, including posts that are marked for fencing and also bicycles in his backyard. Mr. Blizzard stated that Mr. Bolden has an array of bikes in his backyard and that he has people come and work on the bikes, as well as clean cars in the driveway. He also believes that the proposed fencing will not be on the property lines.

Mr. Brian Craig, property owner of 715 W Ivy Dr., stated that as Mr. Bolden stated, he does live on a curve. He is concerned about the traffic and parking that will occur in that area. Mr. Craig also asked how the revoking of a variance would occur; ex: should Mr. Bolden receive the variance but he has more clients than anticipated, or different hours, becomes a nuisance to the neighbors, etc., how would the City revoke the variance that has been granted.

City Manager, Charles Anderson, stated that the board has the control to issue the variance with stipulations, such as hours of operations, days that he would allow to be open, etc. and once those are in place, the City Code department would monitor that and address any complaints with Mr. Bolden if and when they are received. To address the concern of the revoking process, as mentioned, if Mr. Bolden were to not follow the stipulations put in place and the City has multiple complaints that seem to have depth to them, the process would begin with rescinding that variance if Mr. Bolden was not complying with what was initially put in place.

Mr. Craig stated that he understood the process, but not the timing of how that would occur.

Mr. Anderson stated that it can be a lengthy process when handling complaints. A complaint would have to be made, then followed up with by the Code department staff who would have to find the complaint reasonable, and if so we would then work with Mr. Bolden to have that issue corrected.

Mrs. Sharon Drugash, property owner of 717 W Ivy Dr., stated that most of her concerns had previously been answered, however, she asked if the variance, if approved, follows the property or the owner; ex: if Mr. Bolden were to move from this property would the variance diminish or would the next home owner, be able to have a barbershop at the residence.

City Solicitor, Daniel Griffith, stated that the request is for a use variance. Therefore, if the variance is granted, the board is allowing this property to be used in a manner different than what is granted in the Code; so the variance stays with the property, not with the person.

Mrs. Drugash, also mentioned that the Bolden's have been great neighbors and they take a lot of pride in their property.

Mr. Bolden came back up to address the issue with the bicycles that Mr. Blizzard had mentioned in his comment earlier. Mr. Bolden stated that he does have multiple bicycles, approximately 13-14 currently, however, he uses the bicycles as a means to help the neighborhood children have an activity to do. The kids can come over, help work on the bikes and then take the bikes to ride. He feels that this is a means of allowing the children to have something productive to be doing and using their time constructively.

Mr. Anderson asked Mr. Bolden if he had looked at any commercial properties within the City limits as a possibility to rent and have the barbershop in.

Mr. Bolden stated no; he already has the space at his home and he will be cutting cost of a lot of expenses.

Mr. Anderson stated that he was concerned with granting this request, due to the zoning ordinance, specifically stating that "this does not include, beauty shops, barber shops, real estate offices or insurance offices"; it specifically states that these are not to be permitted in this residential district to maintain the integrity of the residential district. The council that put this ordinance in place specifically stated that these businesses were not permitted in this zone; Mr. Anderson stated that he has a hardship with the request with these statements in place.

Mrs. Bolden came forward, to address a few concerns, she stated that a lot of traffic comes from the neighboring gym. She also stated that Mr. Bolden is making this move to better things for his family and to also transition out of doing hair completely.

With no further questions from the board members, Mayor Genshaw solicited any questions from the public; there were none.

Mayor Genshaw called for a motion. City Solicitor Griffith stated that he made a motion to approve variance request from Section 15-13 (a) (1) (E) Accessory Uses in an R-1 Low Density District of the Zoning Ordinance to have a barbershop business at the above referenced property. City Manager Charles Anderson, seconded the motion. Motion so passed with all present voting in favor.

Decision

City Solicitor Griffith approved the special exception request for Walmart, stating that the containers will not be blocking any parking spaces or fire lanes. The containers will be moved prior to the 120-day time limit that the code allows. He added that these containers have been placed there in the past with no issues. The terms of the special exception request were in compliance with Code section 15-40A.

City Solicitor Griffith approved the variance request to permit a business place of a use that will up-fit vehicles in an M-1 Light Industrial District. The terms of the variance exception request were in compliance with Code section 15-50.

City Solicitor Griffith approved the variance request to subdivide the existing lot, located on Shipley St., Tax Map and Parcel # 531-13.06-41.00, into two parcels. The terms of the variance request were in compliance with Code section 15-15 (1) & (2).

City Solicitor Griffith approved the variance request to have a barbershop business located in an R-1 Low Density District zone. The terms of the variance exception request were in compliance with Code Section 15-13 (a) (1) (E).

City Manager Anderson seconded the motion and the motion was unanimously approved dated November _____, 2019.

With no further business to discuss; Mayor Genshaw called for a motion to adjourn the regular meeting of the Board of Adjustment and Appeals. City Manager,

Charles Anderson, made a motion to adjourn. City Solicitor, Daniel Griffith, seconded the motion; the regular meeting of Board of Adjustment and Appeals was adjourned at 12:38 p.m.

Daniel A. Griffith, City Solicitor

David Genshaw, Mayor

Charles D. Anderson, City Manager