

MINUTES OF MEETING
ZONING BOARD OF ADJUSTMENT
TUESDAY, AUGUST 07, 2018, 4:00PM

DOCKET 1254

9900 Clayton Road

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Tuesday, August 7, 2018 at City Hall.

The following members of the board were present:

Chairman Liza Forshaw
Ms. Laura Long
Mr. Dan Welsh
Mr. David Schlafly
Ms. Elizabeth Panke

Also present were: Roger Stewart, Building Commissioner; Erin Seele, City Attorney; Lori Wrobel, Administrative Assistant; Anne Lamitola, Public Works Director; Andrea Sukanek, City Planner; and Mayor Nancy Spewak.

Chairman Forshaw called the meeting to order at 4:00 PM. She stated that there would be four hearings taking place.

Approval and Adoption of the Agenda

Ms. Long made a motion to approve the agenda. Mr. Welsh seconded the motion. All those present were in favor and the agenda was approved.

Approval of the Minutes from the June 5, 2018 meeting

Mr. Welsh made a motion to approve the Minutes as submitted. Mr. Schlafly seconded the motion. All those present were in favor and the minutes were approved.

Docket 1254 Petition submitted by George Stock for the property located at 9900 Clayton Road. Petitioner is requesting relief from the City Planner denying a New Commercial Building due to Parking Requirements which state no part of the required front, side, or rear yard shall be used for parking spaces or as a parking area in violation of Zoning Ordinance VIII-E-5(c), Planting Strip requirements which state a planting strip of 10 feet shall be provided within the required 40 foot front yard in Violation of Zoning Ordinance Section VI-D-10, Joint parking facilities must provide 1 parking space per 200 square feet of floor area per Section VII-9-A-.ii. Applicant is also requesting deferment of 5 parking spaces per Section IX-H-7.

Chairman Forshaw asked the City Planner for an explanation of the denial.

Ms. Sukanek stated that the appellant is requesting 3 variances and 1 deferment.

The planting strip is five feet and does not meet required ten-foot planting strip for the required front yard.

The Zoning Ordinance does not allow parking in the required front, side or rear yard.

For joint parking to be allowed, the Zoning Ordinance requires 1 parking space for every 200 square feet of commercial floor area or 768 spaces for the entire site including other commercial buildings. The proposed number of parking spaces is a shared 495.

Applicant is asking the Board for deferment of 5 parking spots on the West of the building.

Due to the size of this commercial building a Special Use Permit was required. This has been granted by the City Council following a positive recommendation by the Zoning & Planning Commission. Site Plan approval has also been granted by City Council.

Chairman Forshaw introduced the following exhibits to be entered into the record:

- Exhibit A – Zoning Ordinance 1175, as amended;
- Exhibit B – Public Notice of the Hearing;
- Exhibit C – Letter of Denial dated June 25, 2018;
- Exhibit D – List of Residents sent notice of meeting;
- Exhibit E – Letter from the resident requesting the variance dated July 6, 2018;
- Exhibit F – Entire file relating to the application
- Exhibit G – Applicant's Power Point Presentation

George Stock, on behalf of Scott Properties, and Lee Cannon of C.B.B. Transportation Consultants were sworn in and addressed the Board requesting approval of three variances and one parking deferment in connection with the development of a one-story 9,000 square foot retail building approximately 75 feet from the Clayton Road right of way and approximately in line with the commercial development to the east, taking the place of an area currently covered by landscaping, parking, and driveway areas. A pedestrian sidewalk along Clayton Road would also be added.

1. The planting strip is five feet on the property; there is an existing city-owned twelve-foot green strip, thus when the proposed new greenspace is considered together with the city-owned greenspace the plan exceeds the requirement in greenspace. Surrounding properties do not have any greenspace between the establishments and Clayton Road. The existing sidewalks will be brought up to ADA compliance by the applicant.
2. The site plan proposes parking spaces in the 20-foot front yard setback and in the 5-foot side yard setback. The Zoning Ordinance does not allow any. There are no properties nearby that meet this requirement. The appellant asserted that high-end boutique retail customers generally expect convenient front yard parking.

3. The Proposal has 495 shared parking spaces (including 5 deferred spaces). A joint parking arrangement was allowed as part of the Special Use Permit, so as to have shared parking with the other commercial buildings. The shared parking requirement is 768 spaces. C.B.B. did a parking study and the appellant is confident there will be ample parking. The parking study concluded that during the peak time there would be a comfortable parking surplus of approximately 31%, i.e., only 69% of the shared spaces (343 spaces) would be occupied at peak time.
4. The appellant will keep the five deferred spaces as green space. If necessary, they will convert this space to five parking spaces if required by the City. City staff suggested the deferral.

After a discussion, on the basis of the evidence presented, the Board found that strict compliance with the Zoning Code would impose practical difficulties on the property owner for the development of this site in consideration of the site plan dated May 1st, 2018. The Board decided to vote on each variance individually.

Mr. Schlafly made a motion to overturn the ruling of the Building Commissioner and grant a variance allowing a five-foot planting strip. Mr. Welsh seconded the motion. The vote was as follows:

| | |
|-----------------------|--------------|
| Chairman Liza Forshaw | "approve" |
| Ms. Laura Long | "approve" |
| Mr. Dan Welsh | "approve" |
| Mr. David Schlafly | "disapprove" |
| Ms. Elizabeth Panke | "approve" |

Four (4) votes in favor and one (1) against. This variance was approved.

Ms. Long made a motion to overturn the ruling of the Building Commissioner and grant a variance for the parking layout, allowing parking spaces in the front and side yards of the property. Mr. Welsh seconded the motion. The vote was as follows:

| | |
|-----------------------|-----------|
| Chairman Liza Forshaw | "approve" |
| Ms. Laura Long | "approve" |
| Mr. Dan Welsh | "approve" |
| Mr. David Schlafly | "approve" |
| Ms. Elizabeth Panke | "approve" |

Five (5) votes in favor and zero (0) against. This variance was approved.

Ms. Panke made a motion to overturn the ruling of the Building Commissioner and grant a variance allowing for 495 shared parking spaces. Ms. Long seconded the motion. The vote was as follows:

| | |
|-----------------------|-----------|
| Chairman Liza Forshaw | "approve" |
| Ms. Laura Long | "approve" |
| Mr. Dan Welsh | "approve" |
| Mr. David Schlafly | "approve" |

Ms. Elizabeth Panke "approve"

Five (5) votes in favor and zero (0) against. This variance was approved.

Ms. Forshaw made a motion to approve the deferment of 5 parking spaces as shown on the site plan dated 5/1/2018 until such time as the City staff deems the additional spaces necessary.

Ms. Long seconded the motion. The vote was as follows:

| | |
|-----------------------|-----------|
| Chairman Liza Forshaw | "approve" |
| Ms. Laura Long | "approve" |
| Mr. Dan Welsh | "approve" |
| Mr. David Schlafly | "approve" |
| Ms. Elizabeth Panke | "approve" |

Five (5) votes in favor and zero (0) against. The parking deferment was approved.

DOCKET 1254

DATE OF HEARING

August 07, 2018

NAME

George Stock, Scott Properties

DESCRIPTION OF PROPERTY

9900 Clayton Road

CAUSE FOR APPEAL

Petitioner is requesting relief from the City Planner denying a New Commercial Building due to Parking Requirements which state no part of the required front, side, or rear yard shall be used for parking spaces or as a parking area in violation of Zoning Ordinance VIII-E-5(c), Planting Strip requirements which state a planting strip of 10 feet shall be provided within the required 40 foot front yard in Violation of Zoning Ordinance Section VI-D-10, Joint parking facilities must provide 1 parking space per 200 square feet of floor area per Section VII-9-A-.ii. Applicant is also requesting deferment of 5 parking spaces per Section IX-H-7.

RULING OF THE BOARD

After a discussion of the facts presented, the Board overturned the ruling of the City Planner and the variances and parking deferment were granted.



Ms. Liza Forshaw, Chairman