

**BOARD OF ZONING APPEALS
MINUTES**

The Winchester Board of Zoning Appeals held its regular monthly meeting on December 12, 2007, 4 p.m. in the Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester VA

PRESENT: Koneczny, Wiley, Hurt, Phillips

ABSENT: Roberson

STAFF: Aaron Grisdale, Mary Chasteen, Angela Walsh

VISITORS: Gary Chrisman, David McLaughlin, M. Minder, Dan Mislowsky, John Lewis, Jim Stutzman

MINUTES: On motion by Mr. Phillips, seconded by Mr. Koneczny, the minutes of November 14, 2007 were unanimously approved as presented.

Aaron Grisdale, Deputy Zoning Administrator, read the following:

BZA 07-21 Request of David W. McLaughlin on behalf of the subject property for a variance of Section 18-6-5.1 of the Winchester Zoning Ordinance, pertaining to required off-street parking at 616-618 South Loudoun Street (*Section 213, Double Circle 1, Block B, Lots 6 and 7*), which is zoned Residential Business (RB-1) District and within the Historic Winchester (HW) Overlay District.

The applicant, David W. McLaughlin, is requesting relief of the off-street parking requirements, as established within Section 18-6-5.1 of the Winchester Zoning Ordinance. The subject property is located at 616-618 South Loudoun Street, which is zoned RB-1 and within the HW District. Mr. McLaughlin proposes to change the use of the subject properties from single-family residential (which spans both properties) to a Bed & Breakfast Inn. The off-street parking requirement for a Bed & Breakfast Inn at this particular location would be a total of five (5) spaces. There is no opportunity to create off-street parking on the subject properties.

The subject property is located entirely within the Residential Business (RB-1) District, with Historic Winchester (HW) District Overlay. The parcels are considered interior lots, with frontage on the east side of South Loudoun Street.

The applicant has presented a thorough written description of their request, which has been submitted for your review. The applicant realizes that the granting of this variance request does not serve as assurance of the granting of a Conditional Use Permit to operate a Bed & Breakfast Inn in the RB-1 Zoning District, which would be subsequently required from the City Council.

Currently, the subject properties exist as two (2) separately deeded and platted parcels that are jointly improved with a single-family detached dwelling. The dwelling structure formerly existed as a two-family dwelling structure, with an interior wall and common property line separating both units. The Zoning Ordinance would not prevent a reversion to the former arrangement of two separate dwelling units.

Off-street parking for the dwelling structure, either as a single-family dwelling or two-family dwelling, currently does not exist and represents an existing nonconformity. As the applicant intends to establish use and occupancy of the existing structure as a Bed & Breakfast Inn with four (4) guest rooms, a requirement of five (5) off-street parking spaces exists. Pursuant to Section 18-6-5.1 of the Zoning Ordinance, at least one (1) off-street parking space for each guest room, plus one (1) space for each employee is required.

Mr. Hurt opened the Public Hearing:

Speaker: Mr. McLaughlin stated that he opened the common wall which was closed off by a concealed door that existed at one time closing off the two lots. He said he was considering making the two buildings one deeded lot.

Mr. Phillips said that there would probably be a problem finding parking spaces. Mr. McLaughlin indicated that he didn't expect more than two – three people at one time, the only problem being that there would be no parking directly in front of the house.

There was no correspondence from neighbors against the Bed and Breakfast. A neighbor who operates a business near the proposed Bed and Breakfast (Miss Minder) said she had no objections to Mr. McLaughlin's plans, whatever he does will be tastefully done.

Hearing closed.

Mr. Koneczny, second by Mr. Phillips, motioned that the Board conditionally approve BZA 07-21, granting relief of the off-street parking requirements pursuant to Section 18-6-5.1 of the Winchester Zoning Ordinance, if the use and occupancy of these properties is Conditionally Permitted for use as a Bed & Breakfast, with the following conditions imposed:

1. Prior to changing the use and occupancy of the single-family dwelling to a Bed & Breakfast Inn, the applicant shall apply for and obtain a Conditional Use Permit; and,
2. If granted by the Common Council of the City of Winchester, the Board of Zoning Appeals hereby requests that the City Council impose certain conditions related to the routine monitoring of on-street parking impacts within the neighborhood prior to re-issuance of any Conditional Use Permits; because,
 - a. The variance is in harmony with the intended spirit of the Ordinance; and,
 - b. That the strict application of the Ordinance would produce a clearly demonstrable hardship to the property; and,
 - c. That the authorization of the variance will not be of substantial detriment to the adjacent properties and that the character of the district will not be changed by the granting of the variance.

The motion carried 4/0/0.

BZA 07-23 Request of Painter-Lewis, PLC, on behalf of the subject property for a variance of Section 18-6-3.2 of the Winchester Zoning Ordinance, pertaining to required off-street parking area buffer at 2725 Valley Avenue and 2729-2739 Valley Avenue (*Section 310, Double Circle 1, Lots 6 and 7*), which is zoned Highway Commercial (B-2) District and within the Corridor Enhancement (CE) Overlay District.

The applicant, Painter-Lewis, PLC, is requesting relief of the off-street parking area buffer requirements, as established within Section 18-6-3.2 of the Winchester Zoning Ordinance. The subject property is located at 2725 Valley Avenue and 2729-2739 Valley Avenue, which is zoned B-2 and within the Corridor Enhancement Overlay District. The applicant is presenting a site plan design that would establish use and occupancy of these properties for Auto Body repair and servicing.

The subject property is located within the Highway Commercial (B-2) District, with Corridor Enhancement (CE) District Overlay. The parcels are considered interior lots, with frontage on the west side of Valley Avenue. Properties situated immediately to the rear of the subject parcels are within the Low Density Residential (LR) District.

The applicant has presented a written and graphic description of their request, which has been submitted for your review. The applicant realizes that the granting of this variance request is separate from any requirements to obtain a Conditional Use Permit from the Common Council of the City of Winchester for use and occupancy of the subject parcels for Auto Body Repair. The application for a Conditional Use Permit has been reviewed and endorsed by the Planning Commission and is subject to a City Council public hearing on December 11, 2007. Therefore, as of the scheduled date of the Board of Zoning Appeals public hearing, the matter may have already been approved or denied by the City Council. (Approved by City Council 12/11/07)

The current design of the facility and required off-street parking necessary to accommodate the requested uses and occupancies does not allow for conformance with the established off-street parking area buffer requirements from the public right-of-way. As a result the applicant is requesting a 3' variance from the required distance of 10'. The proposed landscaping on-site would further provide a visual buffer, as well as, the change in elevation from the paved surface of Valley Avenue to the paved off-street parking area intended to serve the Auto Body facility.

Public Hearing Opened:

Speaker: Mr. Lewis (Painter & Lewis) said the conditional use was approved 12/11/07 by City Council. He said the desired set back for the front yard was 7' -- the requirement is 10'. The front curb will be approximately 7' from the property line at one location and the rest of the curb will be setback from the property line which varies from 7' to greater than 10'. The amount of green space provided between the on-site curb and the pavement is approximately 30'. This additional space would provide more vehicle maneuvering in front of the building.

Hearing Closed

Mr. Wiley, second by Mr. Koneczny, motioned that the Board conditionally approve BZA 07-24, granting relief of the off-street parking area buffer requirements pursuant to Section 18-6-3.2 of the Winchester Zoning Ordinance, if the use and occupancy of these properties is Conditionally Permitted for use as an Auto Body repair facility, with the following conditions imposed:

1. Prior to changing the use and occupancy of the existing parcels to an Auto Body repair facility, the applicant shall apply for and obtain a Conditional Use Permit; and,
2. The landscaping improvements and grade changes depicted on the submitted site plan be incorporated prior to a Certificate of Occupancy being granted by the Zoning Administrator, and,
3. That no more than a 3' deviation from the required off-street parking area buffer be established; because,
 - a. The variance is in harmony with the intended spirit of the Ordinance; and,
 - b. That the strict application of the Ordinance would produce a clearly demonstrable hardship to the property (and adjacent property owners); and,
 - c. That the authorization of the variance will not be of substantial detriment to the adjacent properties and that the character of the district will not be changed by the granting of the variance.

Motion carried 4-0-0.

OLD BUSINESS

Request of Gary Chrisman for modification of a previously granted variance, **BZA # 06-18, Pertaining to 1060-1068 Woodland Avenue.**

Public Hearing Opened:

Speaker: Ted Mislowsky stated that Mr. Chrisman would like to delay the establishment of the condominium and requests that BZA approve the minor subdivision plat so that it could be recorded now with the condition that the condominium would be created on the apartment building within five years of plat recordation.

Hearing closed.

Mr. Koneczny, second by Mr. Wiley, motioned to approve delaying of the Condominium until an alternate sale as five individually deeded units, as recommended by language attached to the minor subdivision plat.

“Gary Chrisman, being owner of the property at 1060-1068 Woodland Avenue, identified by tax map parcel number 196-8-W-187, does hereby condition this property such that its transfer or sale can only be executed following a division of the property into five individual residential deeded units. This division may occur in accordance with the condominium act or through subdivision of the property in accordance with local ordinances or codes in affect at the time.”

Motion carried 4-0-0.

Meeting Adjourned: 4:30 p.m.