



Board of Zoning Appeals
Regular Meeting
Town Hall
June 8, 2009
4:00 p.m.

At approximately 4:00 p.m. in the Town Hall, Chairman Roger Munz called to order the Board of Zoning Appeals Public Hearing and Meeting. In attendance were board members Pete Baumann, Julia Parr and Jay Wiegner. Board member Steve Hairfield was not in attendance. Also present were Town Planner Tom Bonadeo and Town Clerk Libby Hume as well as two members of the public. The applicant, Mr. Paul Forst, was not in attendance.

Roger Munz informed the board members that he previously had a working relationship with the applicant as an onsite representative for approximately 6-7 months regarding the Mack building and has had numerous out-of-town real estate transactions with him. Mr. Munz went on to state that if the board felt it was appropriate, he would recuse himself from the discussion and vote on this issue. Tom Bonadeo stated that since the dealings were in the past, he did not see a conflict of interest regarding this application. Jay Wiegner and Julia Parr were also in agreement.

Tom Bonadeo reviewed the application specifics and the duties of the Board of Zoning Appeals (BZA) as outlined in §2.6.2 of the Zoning Ordinance.

PUBLIC COMMENTS

Mr. & Mrs. Jerome Loomis, 240 Randolph Avenue, addressed the Board stating that a precedent would be set if the application were approved to allow the applicant to rent ground level units as residential vs. commercial. Mr. Loomis added that the units were rented as residential last year and tenants were sitting on the sidewalk and their personal belongings were scattered at the entrances on the sidewalks. Mrs. Loomis stated that it would be a hardship for tenants to live in these units since there is no yard or place to sit and gather except for on the sidewalk. Last year, a tenant in the end unit owned a dog and would walk the dog on the Loomis' property. Also, there were some suspected illegal activities taking place in the units.

Tom Bonadeo stated that he received a phone call from Ms. Katherine Nottingham and she expressed similar concerns as Mr. and Mrs. Loomis.

APPLICATION OVERVIEW AND DISCUSSION

The Board reviewed the Application for Zoning Variance from Mr. Paul Forst. Tom Bonadeo stated that the zoning ordinance currently allows residential units on the second and upper stories only with parking in the back for apartments. All the buildings on Strawberry Street between Mason and Randolph Avenues are commercial and this building has no residential right-of-way and the property line goes to the sidewalk. No buildings along Randolph Avenue, with the exception of the Post Office, are commercial.

There was much discussion regarding the three conditions that must be met before a variance could be granted. The conditions are as follows: i) The strict application of the ordinance would produce undue hardship; ii) Such hardship is not shared generally by other properties in

the same zoning district and the same vicinity; iii) The authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance. It was agreed that the hardship, which was due to the economic times vs. the ordinance, regarding the renting of commercial space was shared by a number of businesses in Town and the applicant stated in his letter that there were over 20 vacant commercial units in Cape Charles. The Board also agreed that the character of the area would be affected by allowing the units to be rented as residential units.

Roger Munz stated that due to the absence of Steve Hairfield, there could be a split decision. Even though, as chairman, he usually votes on applications, he offered to abstain from the vote regarding this application. Tom Bonadeo stated that the Cape Charles BZA did not currently have by-laws but in the other boards and commissions, the chairperson typically does not vote except in the event of a tie. After some discussion, Mr. Munz stated that he would abstain from the vote.

Roger Munz called for the vote. Board members Pete Baumann, Julia Parr and Jay Wiegner unanimously voted against approval of the zoning variance.

Roger Munz adjourned the meeting of the Cape Charles BZA at 4:58 PM.

Chairman Roger Munz

Town Clerk