

MINUTES

The Salisbury Board of Zoning Appeals met in regular session on March 3, 2011, in Room 301, Government Office Building at 7:00 p.m. with attendance as follows:

BOARD MEMBERS:

Patricia Layton, Chairman
Dave Rainey, Vice Chairman
Daniel Baker
Edgar Williams (Absent)
Dave Nemazie

CITY OFFICIALS:

Henry Eure, Building, Permits & Inspections Dept.

PLANNING STAFF:

Gloria Smith, Planner
Beverly Tull, Recording Secretary



Mrs. Layton, Chairman, called the meeting to order at 6:59 p.m.

**MINUTES:**

The minutes of the January 6, 2011 minutes were approved as submitted.

**#SA-8605-11B Stewart Perim – Enlargement of a Legal Nonconforming Structure/Use – 1505 South Salisbury Blvd. – General Commercial District.**

Dr. Stewart Perim and Mr. Keith Fisher came forward. Mrs. Gloria Smith presented and entered the Staff Report and all accompanying documentation into the record. She summarized the report explaining that the applicant proposes construction of a 1,050 sq. ft. addition to the front of the existing building for a dental office. The existing building is nonconforming with regard to both the front and the rear setback. Board approval for the enlargement of a nonconforming use is requested.

Mr. Eure stated that the Building Department concurred with the Planning Staff and would recommend approval of the request. The Building Department preferred the initial proposal with the easement requirement the best over the other proposals that had been submitted in the last few days. Mr. Eure stated that the Building Department would recommend approval with the condition in the Staff Report and the added condition that parking bumpers be provided in front of the stabilized parking spaces which are now gravel.

Dr. Perim stated that he would do whatever the Board wanted him to do. There is a time crunch for getting the approval because the funding for the solar and geothermal parts of the project will run out. He stated that he had been in contact with the Railroad for several months but hasn't gotten the perpetual easement agreement from them yet. Dr. Perim stated that he needed to start the building process in order to get the solar and geothermal stuff done by September or else the Federal and State funding would be lost. He stated that he would continue to pursue the Railroad easement, the property will be well landscaped and provide a much more

attractive appearance than what is currently there, and he was appealing to the Board to get started and get the funding for the improvements.

Mr. Nemazie questioned if he had considered seeking a parking variance. Dr. Perim responded that he really didn't need all the parking spaces.

Mrs. Layton questioned how big of a staff he had. Dr. Perim responded that there are three (3) staff members plus the patient's vehicles. He added that he also wanted to use the building for lectures and Boy Scout meetings. The upstairs will also be used for storage for Boy Scout stuff.

Mr. Rainey questioned if there were 15 parking spaces in the easement. Mr. Eure responded that there are actually 17 parking spaces in the easement. Mr. Rainey stated that there are 22 parking spaces on the property. Mr. Nemazie stated that there are 23 parking spaces on the property. Mrs. Smith stated that there had been a discussion with Mr. Lenox and Mr. Eure on whether a parking variance was needed. The easement would satisfy the parking for any other use that the building might have in the future. Mr. Rainey questioned if the parking spaces were calculated on the use. Mr. Eure stated that the parking spaces were calculated on the gross square footage of the building.

Mr. Nemazie stated that it seemed like there was a lot of parking for the site. He stated that one (1) space straddles the property line. Mr. Nemazie suggested approving with the 23 spaces and the landscaping.

Mrs. Layton stated that the building crosses the property line. Dr. Perim stated that he didn't think that the building being across the property line was a big issue.

Mr. Fisher stated that Mr. Eric Davis got his lease from the Railroad after about 10 to 15 months worth of trying.

Dr. Perim questioned if he could get some kind of approval so that he could get started on the construction but with a condition that he couldn't use the other parking until the perpetual easement was obtained.

Mr. Rainey suggested giving approval but adding a parking variance that would become null and void if the property were to change hands.

Mr. Eure stated that technically the Zoning Code states that when you put an addition on a property that you only have to provide spaces for the addition.

Mr. Rainey stated that if they were to approve the enlargement and add the parking variance with the condition that it becomes null and void if the building

were to change hands then it provides Dr. Perim with the incentive to get the parking easement.

Mr. Baker questioned how the condition that the parking variance would become null and void if the property were to change hands would be recorded. Mr. Rainey stated that it would be Dr. Perim's responsibility to reveal the condition if he were to sell the property. Mrs. Smith added that the condition would also be part of the case file.

Mr. Rainey questioned if this hearing was even required. Mrs. Smith responded that the enlargement of a nonconforming use did require the public hearing. Mr. Eure added that nothing advocated that the parking was necessary. The easement agreement can still be pursued however, Mr. Eure stated that he thought that the parking should be provided.

Upon a motion by Mr. Rainey, seconded by Mr. Nemazie, and duly carried, the Board **APPROVED** the requested enlargement of a legal nonconforming use, based on the original submission and on Section V(c) of the Staff Report.

Upon a motion by Mr. Rainey, seconded by Mr. Baker, and duly carried, the Board **GRANTED** an 18 Space Parking Variance that will be recorded for this use **ONLY** and shall become null and void should the building be transferred to another owner or changed to another use.



ADJOURNMENT

With no further business, the meeting was adjourned at 7:29 p.m.



This is a summary of the proceedings of this meeting. Detailed information is in the permanent files of each case as presented and filed in the Salisbury-Wicomico County Department of Planning, Zoning and Community Development.

Patricia Layton, Chairman

John F. Lenox, Secretary to the Board

Beverly Tull, Recording Secretary