



City of Salisbury – Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT
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JAMES IRETON, JR.
MAYOR

TOM STEVENSON
CITY ADMINISTRATOR

BOB CULVER
COUNTY EXECUTIVE

R. WAYNE STRAUSBURG
DIRECTOR OF ADMINISTRATION

MINUTES

The Salisbury Board of Zoning Appeals met in regular session on April 2, 2015, in Room 301, Government Office Building at 7:00 p.m. with attendance as follows:

BOARD MEMBERS:

Dave Rainey, Vice Chairman
Daniel Baker
Jordan Gilmore
Dave Nemazie (Absent)
Chad Brown (Absent)

CITY STAFF:

Henry Eure, City Building, Permits, and Inspections Department

PLANNING STAFF:

Gloria Smith, Planner
Beverly Tull, Recording Secretary



Mr. Rainey, Vice Chairman, called the meeting to order at 7:01 p.m.

**MINUTES:**

The minutes of the November 6, 2014 meeting were approved as submitted.

**#SA-1501**

Maryland Square, LLC, rep. by Parker & Associates – Special Exception – 65,400 sq. ft. shopping center – 2408-2410 North Salisbury Blvd. & 125 W. Henry Street – General Commercial District.

Mr. Will Kernodle and Ms. Lenora Mihavetz 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 conversion of these properties to a shopping center. This site was developed in 1993 with the 60,000-sq. ft. Service Merchandise building, parking spaces, landscaping, and stormwater management basins. The applicant proposes converting the properties, including the former Zia's Restaurant site, to a Community Shopping Center. The Code requires a Special Exception for Shopping Centers over 30,000 gross square feet of floor area in the General Commercial District. Board approval of the Special Exception is requested.

Mrs. Smith noted that there is a land dispute that should be referenced for the hearing.

Mr. Rainey questioned that the dispute is in regards to property lines. Mrs. Smith stated that it was her understanding that the dispute has to do with the closure of Henry Street and the timing of the recording of the deed for Henry Street and how it was split between the properties or didn't get split between properties. Mr. Rainey questioned that if affects the overall size of the property. Mrs. Smith responded in the affirmative, adding that it would be a small percentage. Mr. Rainey questioned if Mrs. Smith knew how the issue was going to be resolved. Mrs. Smith responded in the negative. Mr. Rainey stated that his recommendation was to table the hearing until the dispute was resolved.

Ms. Mihavetz requested to be heard. Mr. Rainey responded that she would not be heard at this time. Ms. Mihavetz voiced her objection, explaining that she was there to represent Maryland Square. She stated that she had an objection to Mr. Rainey presiding over the meeting. Mrs. Smith explained that there was a procedure and she needed to bear with the Board.

Ms. Mihavetz stated that she would be heard at some point in the proceedings. Ms. Mihavetz stated that there is a conflict of interest in Mr. Rainey presiding over

this hearing that needs to be put on the record. Mr. Rainey acknowledged that Mr. Widdowson had represented him personally and Ms. Mihavetz represented his ex-wife. Ms. Mihavetz stated that what is codified in the City Code provides the conflict of interest for Mr. Rainey to preside in this case as Mr. Widdowson and Mrs. Gale Widdowson are interested parties in these proceedings. Ms. Mihavetz objected to Mr. Rainey's participation in this hearing and preserved the record for Circuit Court.

Mr. Rainey stated that there were two (2) options with either proceeding as is or he could recuse himself. He stated that he understood the objection but he felt that he could proceed with no conflict of interest. He explained that if he recused himself, there would not be a quorum to proceed with the meeting. Ms. Mihavetz stated that it was not appropriate for Mr. Rainey to participate in these proceedings due to the clear appearance of impropriety and a conflict of interest. Discussion followed regarding whether Mr. Rainey had prejudged the case, whether the boundary disputed weighed on the requested Special Exception, and whether or not Mr. Rainey should recuse himself.

Mr. Don Hall questioned what if both sides of the party have an agreement and have agreed upon a solution to the issue. Mr. Hall stated that if the Board would let Mr. Russell Dashiell talk, he could explain the deal. Mr. Rainey responded that he understood the issues but was debating about the recusal.

Ms. Mihavetz requested that **Applicant's Exhibit B and C** be marked for the record as personal case information regarding Mr. Rainey's representation by Mr. Widdowson and Ms. Mihavetz representation of the former Mrs. Rainey.

Mr. Rainey stated that he understood the conflict. For the record, Mr. Widdowson has represented Mr. Rainey personally. Ms. Mihavetz was on the opposite side. To avoid any controversy in this decision, Mr. Rainey recused himself from this case. Therefore, there was no quorum for this meeting.

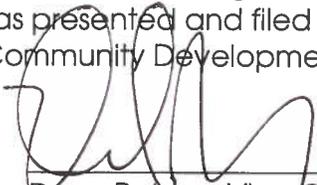


ADJOURNMENT

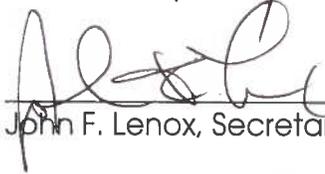
With no further business, the meeting was adjourned at 7:19 p.m.



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.



Dave Rainey, Vice Chairman



John F. Lenox, Secretary to the Board



Beverly Tull, Recording Secretary