



# City of Salisbury – Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT

P.O. BOX 870

125 NORTH DIVISION STREET, ROOMS 203 & 201

SALISBURY, MARYLAND 21803-4860

410-548-4860

FAX: 410-548-4955



JAMES IRETON, JR  
MAYOR

JOHN R. PICK  
CITY ADMINISTRATOR

RICHARD M. POLITT, JR  
COUNTY EXECUTIVE

R. WAYNE STRAUSBURG  
DIRECTOR OF ADMINISTRATION

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## MINUTES

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The Salisbury Board of Zoning Appeals met in regular session on June 6, 2013, in Room 301, Government Office Building at 7:00 p.m. with attendance as follows:

### BOARD MEMBERS:

Patricia Layton, Chairman (Absent)  
Dave Rainey, Vice Chairman  
Daniel Baker  
Lynn Cathcart  
Dave Nemazie

### 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 6:58 p.m.

**MINUTES:**

The minutes of the May 2, 2013 meeting were approved as submitted.

**#SA-1301**

**Potomac Foods Real Estate, LLC, represented by Hoggard-Eure Associates – Side yard setback, Parking lot setback and Parking Space Variance – 1201 Mt. Hermon Road – General Commercial District.**

Mr. CJ Bodnar and Mr. Mark James 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 is requesting approval to demolish two existing buildings and construct a new fast food and a new carry-out restaurant on property located at 1201 and 1203 Mt. Hermon Road. The City Code requires a 20 ft. side yard setback, a 3 ft. parking lot setback from interior lot lines, and 56 parking spaces for the proposed buildings.

Mr. Eure explained that the Building Department supported all three (3) requests. The property layout proposed is much improved over what currently exists. There will be a fire rated wall on the east wall of the building which doesn't exist now. The Building Department recommended approval of all three (3) variances.

Mr. Bodnar stated that they were available to answer any questions.

Mr. James stated that they were excited to have something new.

Mr. Nemazie questioned if there would be two (2) separate structures. Mr. Bodnar responded in the affirmative, explaining that there would be a building on each parcel. Mr. James added that the second building would be the Philly Pretzel Factory. Mr. Eure added that the second building meets the setback requirements. There will be shared parking between the two sites.

Mr. Rainey questioned if Staff was recommending that the two (2) parcels be combined. Mr. Eure responded in the negative.

Mr. Rainey questioned if the variances were for the Burger King property only. Mr. Eure responded in the affirmative.

Mrs. Cathcart questioned the shared parking. Mr. Eure explained that the Zoning Code allows for shared parking with an agreement in place. Mrs. Cathcart questioned the existing three (3) curb cuts to the site. Mr. Bodnar responded that the entrances would be reduced to two (2) entrances with the one closest to the intersection being a right-out only. Mrs. Cathcart questioned if the sidewalk would remain. Mr. Bodnar responded in the affirmative. Mrs. Cathcart questioned if Burger King had always owned both parcels. Mr. James responded that they had recently purchased the second parcel.

Mr. Bodnar noted that he had brought copies of the building elevations if the Board wished to see them.

Mr. Baker questioned if the shared parking agreement is required. Mr. Eure responded in the affirmative. Mr. Bodnar added that Potomac Foods has closed on the second parcel.

Mrs. Cathcart questioned if they believed that the pretzel place would do ok. Mr. James responded that they were hopeful that it would do a good business.

Upon a motion by Mr. Nemazie, seconded by Mrs. Cathcart, and duly carried, the Board **APPROVED** the requested 19 ft. 3 inch side yard setback, 2 ft. 6 inch parking lot setback from the interior lot lines, and 13 parking space variance for the proposed buildings as requested, based on the criteria listed in Section V(c) of the Staff Report.



**#SA-1302**

**Steven & Brenda Marvel – Variance to provide Parking within the Front Yard for a Boardinghouse – 1004 S. Division Street – Office and Service Highway District #1.**

Mr. Steve Marvel and Mrs. Denise Marvel came forward. Mrs. Gloria Smith presented and entered the Staff Report and all accompanying documentation into the record. She summarized the request explaining that the applicants propose use of this building as a small boardinghouse for up to four tenants. The Code requires that the parking be provided behind the front building line and the rear lot line. This property has frontage on two streets. Board approval of a variance to provide parking within the front setback is requested.

Mr. Eure explained that a boardinghouse is a permitted use in this zoning district. The request makes sense. The Building Department recommends approval of the request with the condition in the staff report and an added condition that there be no more than four (4) tenants at any time.

Mrs. Smith noted that Attachment #12 is the text of the Office, Service Highway District #1 and that she had highlighted where a boardinghouse was a permitted use. She added that a boarding house is only permitted in four (4) districts.

Mrs. Marvel stated that they have had rental properties for the last 15 years. The condition of having only four (4) tenants is not a problem. She added that one (1) of the tenants would be their son.

Mr. Marvel stated that the house has been very well maintained. Because this property was used as a commercial use in the past, there will actually be less traffic with the boardinghouse than with the commercial use. He added that the parking will not be in front of the front door. There will still be a yard for the tenants.

Mr. Nemazie questioned the homes across the street on Eastern Shore Drive have parking on the property. Mr. Eure responded that the homes are zoned differently than this property. Mr. Nemazie stated that if you look at the aerial of the area, there is a concern about parking. Mr. Marvel stated that there is on-street parking for other rentals in the area. Mr. Nemazie questioned the need for two (2) visitor's spaces. Mr. Eure responded that the need for the two (2) visitor's spaces were due to the fact that the tenants would be college students who would have friends over. Mr. Nemazie stated that he was trying to reduce the amount of impervious surface.

Mrs. Cathcart noted that the sidewalk stops before this property. She added that she objected to parking in the front yard and questioned why two (2) more spaces could not be added in the side yard. Mr. Marvel responded that no additional parking was being added and that the parking would not be in the front yard per se as this had multiple front yards due to the location of the lot. The parking will be where the existing gravel area is.

Mr. Nemazie stated that the parking was staying in the same location but that the question was four (4) or six (6) parking spaces. Mr. Eure responded in the affirmative. Mr. Nemazie stated that he was a little worried about someone requesting additional spaces when they weren't needed and suggested that the parking spaces remain at four (4).

Mr. Rainey questioned why limit the number of tenants when the boardinghouse size limits the number of people allowed. Mr. Eure responded that he was requesting to limit the number of bedrooms for overcrowding. Mr. Rainey stated that the square footage limits the number of people. Mr. Eure responded in the

affirmative, explaining that other rooms could be eliminated to make additional bedrooms. By limiting the number of tenants, the City has some control.

Mr. Nemazie questioned if couples could live in the boardinghouse. Mr. Eure responded in the affirmative, adding that the restrictions are up to the Board. Mrs. Cathcart added that if a limit was put on the property at this point, if the property was sold, the new owners would have to come before the Board to get it changed. Mr. Eure stated that the building is a legal nonconforming use. Mrs. Cathcart stated that the lot is irregular in shape and that she could see the limit of tenants for safety reasons.

Mr. Rainey questioned if this was a legal nonconforming structure. Mr. Eure responded in the affirmative.

Mr. Nemazie questioned the size of the building. Mrs. Marvel responded that the building is 1976 sq. ft. Mr. Marvel added that the garage had been converted to living space.

Mr. Rainey questioned if the only thing that was nonconforming was the setback. Mr. Eure responded in the affirmative.

Mrs. Cathcart questioned if there was a bathroom in the garage. Mrs. Marvel responded in the affirmative. Mrs. Cathcart questioned the number of bathrooms. Mrs. Marvel responded that there were two (2) bathrooms. Mrs. Cathcart questioned if there was a living room and a kitchen. Mrs. Marvel responded in the affirmative.

Mr. Eure stated that the nonconforming issues are on the north side and the S. Division Street side of the property. Mr. Rainey questioned if everything else on the property was conforming. Mr. Eure responded in the affirmative.

Mr. Nemazie stated that the four (4) person restriction is too restricting. He suggested having a six (6) person maximum if the number of tenants had to be restricted. Mr. Rainey stated that the number should be restricted to the number of bedrooms. Mr. Eure stated that there are density requirements per person from Neighborhood Services and Code Compliance.

Mr. Rainey stated that the nonconformity can be corrected with a variance now and questioned if Staff recommended that. Mr. Eure responded that the Board could do that if they wished but the request before the Board was strictly for parking. If the structure was to be enlarged, it would have to come back before the Board. The use is not nonconforming, strictly the building is nonconforming.

Upon a motion by Mr. Nemazie, seconded by Mrs. Cathcart, and duly carried, the Board **APPROVED** the requested Variance to permit parking of six (6)

within the front yard along South Division Street, subject to the following Condition of Approval:

**CONDITION:**

1. The properties shall be resubdivided into one lot.



**#SA-0711-11C**

**Addison Court, LLC, represented by Parker & Associates – One-year Extension of Time to Exercise Approval of a Special Exception for Increased Density for Apartment Complex – South side of East North Pointe Drive, East side of Jasmine Drive – General Commercial District.**

This case was **WITHDRAWN** prior to the meeting.



**ADJOURNMENT**

With no further business, the meeting was adjourned at 7:50 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.

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Dave Rainey, Vice Chairman

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John F. Lenox, Secretary to the Board

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Beverly Tull, Recording Secretary