

**MINUTES
BOARD OF BUILDING AND ZONING APPEALS**

January 9, 2014

MEMBERS PRESENT: Ken Suchan, Doug MacMillan, Tate Emerson and Adrian Eriksen

MEMBERS ABSENT: Pat Zoller, Gregg McIlvaine and Lukas Gaffey

STAFF PRESENT: Andrew Dutton

I. MINUTES

Doug MacMillan moved, Ken Suchan seconded, to approve the Minutes of December 5, 2013 as received. Motion carried by a 4-0 vote.

II. PUBLIC HEARINGS

Appeal #2014-1. Matt Long representing Chesterland Productions requesting an area variance from Planning and Zoning Code Section 1141.06(a) to allow parking within the required side setback and to Section 1141.12(a) to allow a trash receptacle within the required side setback in a C-5 (General Commercial) District at 4050 - 4108 Burbank Road.

Matthew Long, Agent for Chesterland Productions, stated the buildings in question were currently occupied by Alltel and Verizon. Mr. Long stated at the time that Chesterland originally developed the property (in the 1990's), the movie theater was constructed on the rear portion of the lot, and on the front portion were the two buildings in question. Mr. Long stated the owner now wished to subdivide the property. All Code regulations were met with the exception of the lot line that would divide the two buildings noting the parking lot setback was not met. Mr. Long stated in order to maximize the parking, the dumpster was slightly inset and created a "jagged" line. Mr. Long stated he felt the request met the requirements for the granting of an area variance from the Board. Mr. Long noted that Staff had indicated that this type of variance had been relatively granted in similar circumstances by the Board and stated the harm to the public in this instance was negligible and was more of an administrative matter.

Mr. Emerson noted that if the variances were granted, they would be associated with the property. Mr. Dutton stated that was correct—the northern property would just have a side setback variance; the southern property would have a side setback variance and a variance for the trash receptacle setback.

Mr. Emerson questioned if Staff had received any calls with regard to the variance request. Mr. Dutton stated he had received one call, but once the matter was better clarified, the party did not have any additional concerns.

Mr. Eriksen questioned if the trash receptacle could be relocated. Mr. Long stated the dumpster location had worked well in its current location and noted that one of the variance requirements was that public service was not disrupted. Mr. Long stated the location also allowed for the maximizing of parking spaces, and moving it would mean that parking spaces would be lost. Mr. Drushal stated he did not believe there was pavement on the other side of the building in which to relocate the dumpster. Mr. MacMillan stated it was awful tight in that area, and he was concerned

with a trash vehicle coming to the site when Verizon was packed. Mr. Long stated he felt the way it was constructed, it was likely the best design for the lot at that time.

Mr. Suchan noted that he was surprised that the properties were not three separate lots but rather one, and stated that one of the requirements in granting a variance related to rights commonly enjoyed by others, and one of those rights would be in the selling of a property. Mr. Suchan stated it would be difficult to ever sell the property in any form the way the property existed currently, and stated there needed to be a way to subdivide it and be in compliance as much as possible.

Mr. Emerson questioned if there would be any potential conflicts with the property line being located in the middle of the easement/street. Mr. Long stated it was a recorded easement for the collective development which was greater than just this parcel. Mr. Long stated the easement would continue to run with the land—nothing about the access, easement or utilities within the privately owned right-of-way/utility area would change. Mr. Dutton noted that the easements were shown on the plat.

Doug MacMillan moved, Adrian Eriksen seconded, to grant the request of Chesterland Estates for an area variance from Planning and Zoning Code Section 1141.06(a) to allow parking within the required side setback and to Section 1141.12(a) to allow a trash receptacle within the required side setback in a C-5 (General Commercial) District at 4050 - 4108 Burbank Road.

Ken Suchan voted yes.

Doug MacMillan voted yes. Mr. MacMillan stated there did not seem to be another way to subdivide the parcels, and nearly all of the requirements were met.

Adrian Eriksen voted yes.

Tate Emerson voted yes. Mr. Emerson stated by granting the variance, it did not change the functionality of anything.

Motion carried.

Meeting adjourned at 5:43 p.m.

Tate Emerson, Chairman

Laurie Hart, Administrative Assistant