

BOARD OF ZONING APPEALS  
MUNICIPAL CENTER COUNCIL CHAMBERS  
Tuesday, April 12, 2016  
6:00 p.m.

The regular meeting of the Board of Zoning Appeals was scheduled and held in the Council Chambers of the Municipal Center on April 12, 2016. Chairman Browndyke called the meeting to order at 6:00 p.m. requesting the roll call. Ms. Regina Gibson called the roll of the Board and established a quorum:

COMMISSIONERS PRESENT:

Mr. Hunter Browndyke, Chairman; Alderman Mary Anne Gibson; Mr. Frank Uhlhorn; Ms. Pat Sherman; and Ms. Sherri Hicks

DEVELOPMENT STAFF PRESENT:

Mr. Cameron Ross, Economic and Community Development Director; Ms. Sheila Pounder, Planner; Ms. Regina Gibson, Administrative Secretary, and Mr. Alan Strain, Attorney

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The Board of Zoning Appeals is a Quasi-Judicial body and as such, the latitude for acting on applications is somewhat limited by State Statute and City Ordinance. This meeting is recorded and those appearing before the Board would need to identify themselves, give their address and be sworn in for the record.

Motions made in all meetings are of an affirmative nature and does not necessarily mean that the motion will be approved, but that the language will be in an affirmative nature when the motion is made.

1. Approval of Minutes for March 8, 2016. Shown as Agenda Item No. 3

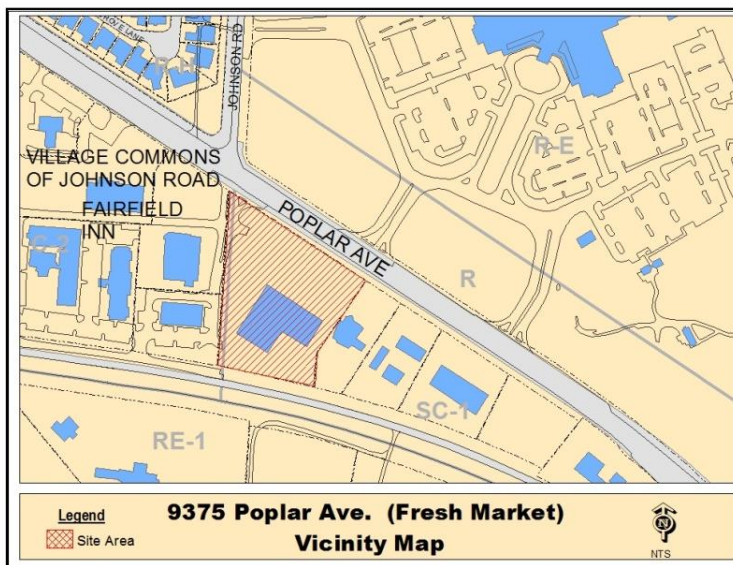
Mr. Uhlhorn moved to approve the Board of Zoning and Appeals minutes of March 8, 2016 with the understanding that his name be corrected on page 3, seconded by Alderman Gibson, with no further comments or discussions.

ROLL CALL: Ms. Sherman – Abstain; Alderman Gibson – Yes; Ms. Hicks – Yes; Mr. Uhlhorn – Yes; Chairman Browndyke – Yes

MOTION PASSED

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2. The Fresh Market – 9375 Poplar Avenue – Approval of a Variance to Reduce the Number of Required Parking Spaces in a Shopping Center in the SC-1 District (Case No. 16-611). Shown as Agenda Item No. 4



**DISCUSSION: SPECIFIC SECTION OF ZONING ORDINANCE:** The request is approval of a variance from § 23-440(1), Parking and Loading, which states “At least one off-street parking space shall be provided for each 200 square feet of gross floor area for the following uses. Measurements representing 50 percent or more of the specified number of square feet of gross floor shall require an additional parking space.

- a. Retail trade (outside of a shopping center)…”

**NATURE OF VARIANCE REQUESTED:** The property’s “SC-1” zoning district establishes the calculation for the minimum number parking spaces required for specific commercial uses. The subject property, Fresh Market with an adjacent tenant building, was approved with a 25,200 square foot building and 126 parking spaces in 2001. The applicant has filed an application with the Design Review Commission (DRC) to increase the overall gross floor area of the existing structure by 1,500 square feet (a new vestibule in front of the Fresh Market structure and a new cooler in the rear); thereby, also requiring an additional 8 parking spaces be added to the site. The applicant is seeking approval of a variance to reduce the number of required parking spaces by the same number of new spaces (8) that would be required based on the 1,500 square foot building addition. The granting of the variance will leave the parking count for this project unchanged if the building addition is approved by the DRC.

**APPLICANT’S JUSTIFICATION:** The applicant indicates that the reason the variance is being requested is “that the proposed improvements will not increase the public sales area and will improve the store operations. The vestibule and cooler addition will not promote a demand by customers or the store for additional parking”. See pages 5-9 for a copy of the application with information concerning the justification for this request.

**STAFF COMMENTS:**

1. Section 23-440 of the City of Germantown Code of Ordinances states in part, “At least one parking space shall be provided for every 200 square feet of gross floor area…”.
2. The existing 25,200 square foot structure at 9375 Poplar Avenue, which includes Fresh Market, requires a minimum of 126 parking spaces, which was provided with the initial development of this project.
3. The requested variance is a result of a proposed 1,500 square foot building addition to the existing structure that will require 8 additional parking spaces be provided on site for a total of 134 parking spaces.
4. The granting of the requested variance will result in no change in the number of existing parking spaces, 126, on the subject site.

An application for approval of a revised preliminary and final site plan that reflects the increased building footprint has been filed with the Design Review Commission to be heard at the Commission’s April 26, 2016 meeting.

**PROPOSED MOTION:** To approve a variance to reduce the number of required parking spaces by 8 for the retail commercial use at 9375 Poplar Avenue in the SC-1 District, subject to the Board’s discussion, staff comments contained in the staff report and the site plan submitted with the application.

Mr. Mike Fahy with Prime Development Group explained that this new plan is to create an actual walkway with landscaping on the side so as to make you feel like you have an entrance into the store. Although they have taken a couple of parking spaces out in order to accommodate this new store entrance, after moving a few existing parking spaces around they will still have 126 parking spaces after the new store entrance construction is completed as they presently do now. The reason they are requesting

this variance is because they have nowhere to go. The site is completely filled, the landscape requirements are specific and we are still falling within these requirements. In this particular application when you look at the front vestibule and see the brick and glass it will look as though it just moved forward. This vestibule will be used to keep the carts out of the way so you don't see them from the street. However, they have a problem with the last condition which is resurfacing of the asphalt. They are a tenant on this property and not the owner therefore they do not have the power to agree to this condition. Mr. Fahy explained that the tenant is presently working with the property owner to try and get this fixed but are still in negotiation and ask some relief on this condition.

The board expressed the need for the parking lot to be resurfaced and explained that this is something that the tenant will have to address once they go before the Design Review Commission.

Mr. Uhlhorn moved to approve a variance to reduce the number of required parking spaces by 8 for the retail commercial use at 9375 Poplar Avenue in the SC-1 District, subject to the Board's discussion, staff comments contained in the staff report, and the site plan submitted with the application, seconded by Alderman Gibson.

ROLL CALL: Ms. Sherman – Yes; Ms. Hick – Yes; Alderman Gibson – Yes; Mr. Uhlhorn – Yes; Chairman Browndyke – Yes

MOTION PASSED

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ADJOURNMENT

There being no further business, comments, or questions by the Commission, the Chairman adjourned the meeting at 6:14 p.m.