

City of Cambridge

Department of Public Works
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Board of Appeals Minutes May 29, 2019

The Board of Zoning Appeals for the City of Cambridge met at 6:00 p.m. on Wednesday, May 29, 2019 in the City Council Chambers located at 305 Gay Street, Cambridge, Maryland.

Board Members in Attendance: Ted Brooks, Chairman, William Clyde, Vice-Chair, Commissioners Dormaim Green, Robin Sample and William Bishop.

Absent: Commissioner Gaver Nichols

Other representatives in Attendance: Herve Hamon, Planner 1; Kyle Kirby, City Attorney

Chairman Brooks opened the meeting and there were no amendments to the agenda. He then issued a welcome and explained the order of the proceedings.

Chairman Brooks swore in those wishing to testify.

Approval of April 23, 2019 Minutes:

Review of April 23, 2019 minutes: Commissioner Clyde made a motion to approve the minutes as submitted, it was seconded by Commissioner Bishop. All approved unanimously.

Regular Business:

1- BOA 2019- 008 – 522 Greenwood Avenue – Variance for the installation of a 6-foot fence in the front yard

The property owners are seeking a variance to erect a 6-foot tall fence in the front yard along Greenwood Avenue. UDC requirements call for a maximum of 4 feet in height in Residential District.

Staff made the following report and recommendations:

55.1 Applicant has submitted all necessary application documents (attached)

55.2 Not installing a 6-foot fence would continue to exacerbate the lack of safety currently experienced at the location; providing a 6-foot fence and gates will improve the security and welfare of the residents; a 4-foot tall fence, as of right in front yards of the residential district, would not achieve the desired level of security.

55.2.a The police calls documented in the Chief's letter demonstrate the current crime situation (2,634 police calls since January 1, 2016) , making the current conditions without fence a loss of the reasonable use of the property.

55.2.b The hardship applies to this property in a unique fashion, because the buildings have a long frontage on a public street that “opens up” the parcel without protection to unwanted / unsafe activities. This property is also unique in the sense that the complex is large and serves a significant number of families.

55.2.b 1) through 5) applies:

- (1) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public,
- (2) The hardship relates to the applicant's land, rather than personal circumstances,
- (3) The hardship is unique, or nearly so, rather than one shared by many surrounding properties,
- (4) The hardship is not the result of the applicant's own actions, and
- (5) That strict enforcement of the provisions of this chapter would deprive the property owner of rights commonly shared by other owners of property in the area.

55.2 c. though g. applies:

c. That the granting of a variance will not confer upon an applicant any special privilege that would be denied to other owners of like property and/or structures within the Zoning District.

d. That the variance request is not based upon conditions or circumstances which are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming which are related to adjacent parcels.

e. That greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance.

f. That the proposed variance is consistent with the City of Cambridge Comprehensive Plan.

g. The variance will neither result in the extension of a nonconforming situation in violation of Article VIII nor authorize the initiation of a nonconforming use of land.

55.3 The use of the property remains residential and unchanged; the aspect of the 6-foot fence, given the scale of the installation along Greenwood Avenue, is consistent with the residential character of the neighborhood and warranted by zoning (illustrations attached).

55.4 This variance is requested for an indefinite duration

55.5 If granted, the variance approval will be reflected on the zoning permit

❖ Staff recommends approving this application, as submitted.

Applicant's input:

The applicant presented details about the functioning of the gates, security system and access structure, for the property as a whole and for the community center & after school program in particular:

1- The after-school program is open to the public. The pedestrian gate will be open 3pm-5pm, Monday through Friday, for the after-school program. The gate will be monitored by a staff member throughout the 3pm to 5pm period (the community center will be open only to the residents, with the exception of the 3 to 5pm school program).

2- There will be a callbox that all delivery and vendors can utilize to phone the management office (open daily 8am to 5pm) to gain entrance to the property, so management is always aware of who is on the property.

3- All adult household members on the lease will be issued a unique fob card that will allow entrance into the property. There will be a replacement cost for any and all fobs lost. Lost fobs must be reported to management and will be deactivated.

4- Invited visitors will be allowed access into the property by the assistance of the tenant they are visiting. If a tenant is unable to allow access for their invited visitors, we will make accommodations on a case by case basis. We care about our tenants and we do not want them to be inconvenienced.

5- In the event of an emergency, the presence of a siren will be detected by the system which will open the gate. More so, if requested, we will issue fobs to all dispatch vehicles so they will be able to gain entry into the property when necessary.

Commissioners Discussion and Approval of Variance:

Commissioner Bishop commended the applicant for the investment made into the Greenwood Avenue Apartment complex, the 10 million dollars on the unit upgrades and the \$200,000 spent on fences and security. He was concerned about the functioning of the security system and gates and expressed that there may be trials and errors experienced before all worked out smoothly.

Vice Chair Clyde commented that the complete package presented in front of the Board of Appeals was justified by a unique situation, and that he believed a 6-foot fence (rather than the allowed 4 foot) would indeed raise the level of safety and security of the residents on the property.

Vice Chair Clyde made a motion to approve the variance application based on all the criteria spelled out in the staff report and recommendations above (55.1 through 55.5). It was seconded by Commissioner Green. All approved unanimously.

2- BOA 2019- 003a – 200 Washington Street – Amendment to a Special Exception

The applicant is seeking an Amendment to the Special Exception BOA 2019-003 granted on September 25, 2018. The amendment regards keeping 2 of the 3 trailers on site, unused from the end of the cold weather season (March) until the start of the following cold weather season (December). The use of the 2 trailers in question remains for temporary shelter exclusively, with similar special exception conditions applied throughout.

Staff report and recommendations:

The overall character of the application from September 25, 2018 remains:

- The application was for (3) three temporary Homeless Shelters to be used during the next three winter seasons. Two trailers would be for residents, one for a family for 6 to 8 family members,

one trailer being used as a shelter with 8 to 10 beds for female persons and the other one for serving meals.

- The Cold Weather Shelter organization has been located at the Wesleyan Church at the corner of Race and Washington Streets for (6) six years. The church is no longer able to accommodate this use on their site. The applicant came to the City last year and secured an Special Exception Permit for last year for four (4) residential trailers. The applicant has provided a narrative about their work in Cambridge and have demonstrated that there is a great need for this type of facility. They have shown that their mission goes beyond sheltering and they provide assistance to help the residents to live a more productive and complete life. This is necessary use in the City of Cambridge.

The Institutional Zoning District requires a Special Exception for this use and has two conditions listed below.

1. *No shelter shall be located within 500' of a public playground or public school.*
2. *All shelters shall provide, as a part of the special exception application, proof that all necessary governmental requirements and licenses have been obtained prior to the application being reviewed by the Planning Commission and the Board of Zoning Appeals.*

The UDC does not permit trailers or mobile homes in the City as demonstrated by the definition of a dwelling.

Dwelling – *any building or portion thereof, designed or used for residential purposes, except trailers or mobile homes.*

- On September 28, 2018 the Planning Commission recommended approval with the following conditions:
 1. This is an approval for three temporary shelters for a total of up to 18 beds to be located on site from December 1 and removed March 30 for three (3) consecutive years ending in March of 2020.
 2. The use shall comply with the conditions set forth in the UDC.
- On May 7, 2019, the planning Commission recommendation remained, and recommendation was made to apply for an amendment of the special exception, to retain 2 of the 3 trailers on site.

❖ Staff recommends approving this application, as submitted

Applicant's input:

Allen Nelson, for the Salvation Army, explained how retaining the 2 smaller trailers on the rear of the Salvation Army building would realize significant savings beneficial to the community services provided. They have been purchased and upgraded

The larger trailer closest to the edge of the rear parking lot would continue to be removed and re-installed during the cold weather periods of use.

Mr. Nelson pointed out on the site plan provided to the Board the exact location of the 2 trailers which would remain permanently installed (although unused from March 30 to December 1 each year). He also expressed that this solution was temporary, as the Salvation Army was hoping to gather sufficient funds to build a permanent shelter within 3 to 5 years.

Approval:

Vice Chair Clyde made a motion to approve Special Exception BoA 2019-003a (Amendment of BoA 2019-003) – Permanent installation of 2 trailers on the rear of the Salvation Army property based on the following conditions:

1. The establishment, maintenance, and operation of the special exception at its proposed location will not be detrimental to or endanger the public health, safety, or general welfare.
2. The special exception at its proposed location shall be such that it will be harmonious in character as well as appropriate in appearance with and will not be injurious to the use and enjoyment of other property in the neighborhood for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special exception at its proposed location will not impede the normal and orderly development and improvement of surrounding properties.
4. Adequate utilities, public water and sewer facilities, access streets, drainage, and all necessary facilities have been or are being provided.
5. The special exception shall be such that pedestrian, bicycle, and vehicle traffic associated with such use at its proposed location will not be hazardous to or unduly conflict with the existing and anticipated traffic in the neighborhood.
6. The special exception shall in all other respects conform to the applicable regulations of the district in which it is located and to the special requirements that may be established for the specific use.
7. The proposed use at its proposed location conforms to the Comprehensive Plan.
8. This special exception is granted for a maximum period of 5 years, subject to future input from the Salvation Army.

Commissioner Green seconded the motion. All approved unanimously.

Chairman Ted Brooks asked for a motion to adjourn. Commissioner Clyde made the motion and was seconded by Commission Green.

Meeting adjourned.

Respectfully submitted,

Herve Hamon, Planner I

Signature: _____

Ted A. Brooks, Chairman, Board of Appeals

Date: _____

6/25/2019