Board of Zoning Appeals

Work Session Agenda

Cape Charles Town Hall – Conference Room
2 Plum Street
June 14, 2016
10:00 A.M.

1. **Call to Order; Roll Call**

2. **Order of business**
   A) Off-street parking regulations review

3. **Adjourn**

Board of Zoning Appeals Staff Report

From: Larry DiRe

Date: June 8, 2016

Item: 2A – Review of off-street parking regulations review

Attachments: April 2014 staff reports for BZA meetings; April 2014 staff letter to applicant

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Background

Harbor District Main Street Mixed Use area constitutes several parcels that front the south side of Mason Avenue. These parcels are generally rather shallow in depth when compared to the commercially-zoned parcels on the north side of Mason Ave. Those north side parcels are predominantly zoned as the Commercial – 1 District, but some are within the Residential – 1 and Harbor Districts. Within the Commercial – 1 District, ground-floor commercial uses are exempt from the off-street regulations found in Article IV Sections 4.5 and 4.5.1 of the Town zoning ordinance. Mixed use development, such as new or change of use second or third floor projects shall conform to the off-street parking requirements within the Commercial – 1 District. In short, when accounting for off-street parking spaces, mixed use parcels on the north side of Mason Avenue do not need to include the ground floor commercial use. The Main Street Mixed Use area of the Harbor District is under a stricter application of the off-street parking regulations that similarly purposed lots on the north side of the same street, with generally shallower lots (for example 140 feet deep compared to 105 feet deep) do not have to meet.

In April 2014 several variances were awarded to this applicant for the mixed used development at this lot. Those variances run with the property, but the parking variance (forty spaces for phase one), is not being requested for modification, and may not be appropriate for this phase of development The attached staff letter to the applicant explains that the parking variance granted was for “Phase I” only.

Recommendation

No staff recommendation at this time.

Board of Zoning Appeals Staff Report

From: Rob Testerman

Date: March 31, 2014

Item: 5A - Variance Application –

Attachments: Application, plan, pictures of the lot, Section 4.5.1

Background

The variance application is for the former Be-Lo grocery store property. The applicant, Mr. Hand, proposes to demolish the existing building and create a new mixed use development on the property. The development would also open the Strawberry Street viewshed to the harbor.

Application Specifics

1. Section 3.9-F(3)a states: "Mason Avenue Setback Requirement. No building or structure shall be located within 8 feet of the Mason Avenue VDOT right-of-way."
    a. The applicant requests that the setback be reduced to 4 feet at ground level. With a 4 foot setback, the building would be set back 16 feet from the curb of Mason Avenue. Portions of the building that fronts Mason Avenue would be setback at least 8 feet from the property line.
2. Section 4.2-F states "…The following unenclosed uses may extend no more than four feet, but not nearer than five feet to any property line: balconies, eaves, trims…" it goes on to state that in the C-1 district (north side of Mason Avenue), balconies located above the first floor may extend to the front lot line.
    a. The applicant is requesting that the upper floor balconies be allowed to extend to the property line, as is allowed across the street in the C-1 district.
3. Section 4.5.1 Table of Parking Standards lists the various parking space requirements for different uses. I have attached the table for your reference.
    a. The applicant requests than rather than the various requirements depending on the use, that 1 parking space per 400 square feet of commercial be allowed.
4. Section 3.9-G states that "open space shall be provided equivalent to 25 percent of lot area." For purposes of section 3.9, open space consists of plazas, esplanades, landscaped areas, walkways, public recreational facilities and the like designed and maintained for use by pedestrians and open to the public. Open spaces shall not be open to vehicular uses except for public safety purposes, and shall be directly accessible from the street level.
    a. The applicant is requesting that the minimum open space requirement be reduced to 15%.

Discussion

State Code Section 15.2-2309. Powers and Duties of Boards of Zoning Appeals states the following:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the

property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.

No such variance shall be authorized by the board unless it finds:

a. That the strict application of the ordinance would produce undue hardship relating to the property;

b. That the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and

c. That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

Recommendation

Discuss the proposals outlined above, and determine if the Board feels that it meets the requirements listed to grant a variance on the requested items.

Board of Zoning Appeals Staff Report

From: Rob Testerman

Date: April 11, 2014

Item: 5A - Variance Application – Former Be-Lo Store, Mason Ave.

Attachments: Section 4.5 and 3.9 of the Cape Charles Zoning Ordinance

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Background

The variance application is for the former Be-Lo grocery store property. The applicant, Mr. Hand, proposes to demolish the existing building and create a new mixed use development on the property. The development would also open the Strawberry Street viewshed to the harbor.

After lengthy discussions during the April 7 meeting, the Board decided to table the decision. The main concerns with the application were the parking requirements and the open space.

Application Specifics

1. Section 4.5.1 Table of Parking Standards lists the various parking space requirements for different uses. I have attached the table for your reference.
    a. The applicant requests than rather than the various requirements depending on the use, that 1 parking space per 400 square feet of commercial be allowed.
2. Section 3.9-G states that "open space shall be provided equivalent to 25 percent of lot area." For purposes of section 3.9, open space consists of plazas, esplanades, landscaped areas, walkways, public recreational facilities and the like designed and maintained for use by pedestrians and open to the public. Open spaces shall not be open to vehicular uses except for public safety purposes, and shall be directly accessible from the street level.
    a. The applicant is requesting that the minimum open space requirement be reduced to 15%.

Discussion

Since the last meeting, staff has been further reviewing the parking standards ordinance. Keep in mind that the applicant has to provide sufficient parking for his intended use only.

Section 4.5.E. Adjustments—Shared Parking states:
One parking area may contain required spaces for several different uses, but except as provided below, the required space assignment to one use may not be credited to any other use. **The extent that developments wish to makes joint use of the same parking spaces operated at different times, the same space may be credited to both uses**. In determining the parking requirements where the uses intend to share parking, the permit-issuing authority will establish the peak hourly demand by calculating such a need from appropriate methodology set out in the most recent version of ITE Reference Manual entitled "Parking Generation", or where that methodology is inadequate from studies done in the town or similar towns and communities. Persons intending to take advantage of this provision are required to demonstrate that an enforceable agreement exists between two parties who intend to share parking.

With 5 commercial uses proposed at 800sq ft each, if calculated to 1 space per 200 square feet that would require 20 spaces for the commercial uses.

The current proposal calls for 28 residential units, with a couple possibly being 2 bedroom, so, at 1 space per one bedroom, and 2 spaces per 2 bedroom, if two units are to be 2 bedroom, that would be 30 spaces.

Generally speaking, mixed use developments need fewer spaces than codes require, due to the variations in peak hours of demand for different land uses on the site. Traditional parking regulations add up the peak-hour requirement for each land use, while shared parking takes into account that land uses will peak at different times, and can share some of their spaces amongst one another. Depending on the type of commercial use, one can assume that they will not be open at night, thus would not need 20 spaces dedicated to commercial uses during the overnight hours. Residents who are living in the units will also not likely all be there during the majority of daytime hours, reducing the spaces needed for residential uses during daytime hours.

Recommendation

Discuss the information presented above, continue discussion from last week and decide if the application meets the requirements to grant a variance.

Municipal Corp. of

Cape Charles

Patrick Hand
2242 Arlington Chase Rd.
Cape Charles VA 23310

Dear Mr. Hand:

This letter will serve as formal notice of the granting of the request for variances as discussed and approved at the April 14, 2014 meeting and public hearing of the Town of Cape Charles Board of Zoning Appeals, for tax map number 83A3-A-7, the former Be-Lo grocery store.

Discussion was held regarding the requests, which would allow a reduction in the setback from Mason Avenue, allowing upper floor balconies to extend to the property line, reduction of the required parking spaces, and reduction of the required open space. After discussion and deliberation, and hearing from the public who chose to speak, the following motion was made:

Motion made by Pete Bauman, seconded by Julia Parr to grant the variances for parcel 83A3-A-7, to allow:

1. The front setback to be reduced to 4 feet from the Mason Avenue VDOT right-of-way.
2. To allow the upper level balconies to extend to the property line, as is allowed in the C-1 district.
3. To reduce the required parking for “Phase I” to 40 spaces.
4. To reduce the required open space to 20%.

Please call me if you have any questions.

Sincerely,

Rob Testerman
Town Planner

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