

**MINUTES – 9.19.23 – APPROVED**  
**BONNER SPRINGS BOARD OF ZONING APPEALS MEETING**  
Tuesday, September 19, 2023 – Regular Meeting – 6:00 p.m.

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1. Meeting **CALLED TO ORDER** by Chair Mesmer at 6:00 p.m.

**ROLL CALL**

Board of Zoning Appeals Members Present: Lloyd Mesmer -Chair; Sherri Neff; Larry Clark - Vice-chair; Paul Zeps

Absent – Nick Perica

Quorum Established

Staff Present: Mark Lee, Community Development Director

2. **CONSENT AGENDA**

**Item #2 – Approval of Minutes of September 16, 2023 Board of Zoning Appeals meeting**

Chair Mesmer introduced the Consent Agenda Item #2. Board Members were awarded time to comment or ask questions.

Motion to **APPROVE** the Consent Agenda was made by Vice-Chair Clark and seconded by Board Member Zeps.

Chair Mesmer called for a vote.

AYE – Mesmer, Neff, Clark, Zeps

NAY – None

**MOTION PASSED 4 – 0**

**UNFINISHED BUSINESS – The following item was Tabled at the August 15, 2023 meeting**

The Public Hearing was reopened at 6:02pm

3. **PUBLIC HEARING – VARIANCE REQUESTS – BZA-02-23 – Consider A request** for variances from the allowed regulations within the C-1; Central Business Zoning District – The applicant is requesting variances to the allowed maximum height, the required minimum parking and the required first floor use as commercial space for 112-120 Oak Street.

Staff explained the location of the project, the requested variances and background on the proposed project. Staff further explained that some changes had occurred since the meeting was tabled. Staff had internal discussions revolving around off-site parking and how that would affect downtown in general. It was further discussed that there were allowances for off-site parking within 500 feet of the parcel on which the new use, structure or building is being located. It further stated that the City could place certain restrictions on the parking since it is a city owned lot.

Staff stated that we would address each of the variance requests individually so that there was no confusion on topics nor votes. Staff then explained the variance requests.

Staff stated the applicants had reconfigured their current parking and were able to achieve roughly 97 spaces within their development area. Staff further discussed the off-site parking location that was being considered, between Oak and Elm Streets. During staff discussions it was determined that essentially no new business or use locating into downtown would be able to provide the appropriate level of parking and the utilization of city owned lots would be a necessity.

Staff further explained the applicant had adjusted the location of their proposed commercial space to front along Oak and not only on the corner of Oak and Front.

Chair Mesmer asked if staff had an elevation rendering of the structure, staff stated yes and proceeded to show it on the projection screen. Chair Mesmer stated that this is a public hearing and that members of the audience would be allotted time to speak in favor or against the requests.

Chair Mesmer stated we would begin by looking at the request for a variance in height. Current regulations allow for three stories, the applicant is requesting four. Then move to the reduction in parking that is being requested. Current regulations require two spaces per dwelling unit, the request is lower. Finally, we would discuss the allowance of non-commercial uses along the ground floor; currently regulations in the C-1 Zoning District require all commercial uses along the ground floor.

Chair Mesmer stated that individual votes would be taken on each request.

Chair Mesmer asked if the developers were present and if they wanted to open with discussions, they deferred. Chair Mesmer stated that the floor was open, any individual wishing to speak in favor was welcome to approach the podium and state their name and address for the record.

**Jordan Micheal Tiner Mackey (120 Emerson Avenue)** – spoke on the fact that the developers had been good stewards of Bonner Springs property and regulations. He stated that the property had any action on it in at least ten years and when the city condemned the property, they immediately had it torn down. He further stated that the likely-hood of other requests for over three stories were more than likely coming down the pipeline due to the nature of current construction practices. He spoke about the fact that the developers are local and that we did not need outside developers coming on and turning this property into something the city does not really want or need.

**Emily Blanks (107 W. 2<sup>nd</sup> Street)** – Spoke about the time she has lived within downtown and as Director of the Chamber of Commerce for Bonner Springs and Edwardsville how many times she is approached regarding new housing choices and how many of those are curious about living within our downtown. She spoke of the 98% housing capacity we are currently at. She further spoke of the fact that injecting these many new residents within downtown would be a great benefit to the business owners within downtown. She spoke about a meeting that had occurred between the developers and downtown business owners and how they themselves had several questions and that parking within downtown was one major concern. She further stated that by the end of the meeting the majority, if not all, of the business owners in attendance felt very comfortable about the development and the increase in foot traffic it would bring and how this may allow them to extend their business hours even.

**Paul Barrett (309 Oak Street, Union Bank and Trust)** – Mr. Barrett spoke of the integrity of the developers and how they were local and associated with the city already by the way of properties and businesses owned by them, the aid in civic and social clubs they have provided as well. He stated we were fortunate to have individuals that were willing to make such a large investment in Bonner Springs and especially the downtown area. He further spoke about his time with the school district and while attempting to recruit new teachers, the question was frequently brought up about housing options in town. The response was typically that affordable housing options were not as readily available as in other areas such as Shawnee or KCK.

**Jake Morby (128 Oak)** – Stated they were directly next door and were very excited about the building and had only one major concern. His concern was parking along Oak and how he hoped parking along Oak would be better policed. He further stated that we need more of this type of development to keep the downtown area thriving.

**Wendy Scheidt (194 Cornell)** – As a member of the Kansas Main Street Program, stated she understands how important housing options within a downtown district can be and what vibrancy they add to an area. She stated she fully supported the development and how this revitalization would greatly help downtown.

Chair Mesmer asked if there was anyone else that would like to speak in favor.

**Traci Morby (128 Oak)** – She stated she was worried when she located her salon to Bonner Springs, she was concerned that the eyesore next door, that was the old Thriftway, would scare clients away. She stated she was very excited now that it was gone and how an increase in foot traffic would only benefit not only her business, but those throughout downtown. She also stated she was all for the development.

Chair Mesmer asked if there were any other members of the public that wished to speak in favor, being none; he asked there were any members that would like to speak in opposition of the requests.

**Jeff Davis (126 Elm Street)** – Stated he was not against the development per say, but had several concerns. One of which was the height variance, stating he felt the building would tower over anything that exists today within downtown. He further stated that he very many concerns about the parking. Referring to the staff report from August, he could not figure out how staff's recommendation was to deny the parking variance request then, but the current staff report has since flipped and now indicates approval of a reduction in parking. He further stated that within the staff report it referenced K.S.A.-12-759 that determines how variances should be reviewed and approved. He further states that within the report, some of the requests are stated as not meeting the requirements in certain responses. But that all three requests are being presented by staff as recommended for approval. He stated that within the statute the variances may be approved if all of the requirements are met. He spoke to each of the requests and how the staff report addressed them. He went on to state that it appeared as though 40% of the statute requirements do not appear to be met.

**Danielle Moore (201 W. Front Street)** – Her house sits directly on the corner across from the proposal. She stated her husband had lived in Bonner Springs for 35 years and is the grandson of D.J. Moore a long time Bonner resident. She stated that this building would tower over their house and that the parking along Elm Street was all the parking that they had. She further stated that during other events held by the city they have had issues with individuals parking in front of their mailbox and driveway, causing issues for them. She would like to know, what if any, accommodations would be to prevent these new residents from parking in front of their home.

Chair Mesmer asked if there were any other individuals that would like to speak in opposition of the requests. Being none, the public hearing was closed at 6:30pm. He asked the Board Members if they had any questions, comments or concerns.

Board Member Zeps stated he had questions regarding the parking and how it would be protected for those residents along Elm and the businesses along Oak. He stated that if there was not some sort of penalty or other mechanism to stop this from happening it would be an ongoing issue. He asked about parking time limits possibly. Staff stated we had discussed the potential for several solutions to the parking, up to and including parking meters. Staff further stated we had even discussed the possibility of the developers providing parking passes to their residents. We had also discussed some policing options with the Chief of Police and how it was received positively by him. His second concern with parking was a story that referred to the potential of this being marketed towards retirees and how this may lead to an increase in the need for ADA compliant parking spaces. Staff stated that the number of required ADA compliant spaces come from the building code and our Ordinances, it would not be up to us to increase those amounts of spaces without changes to those documents.

Staff stated they felt clarification was in order regarding the parking. The request is not in relation to a specific location but a reduction in the amount to be required on-site. The parking regulations as written already allow for parking within 500 feet of a business or structure.

Board Member Zeps asked for clarification of the 500-foot rule, is this designated as public parking within city owned parking lots. Is it specifically listed out as parking for these residents or does it mean parking is provided within 500 feet, therefore it is all open parking and they can park anywhere by anybody. Staff stated these were both correct. The intent behind Section 7 of the Parking Regulations; is that the City can provide a specific number of spaces to the development through public parking and place deed restrictions on them regarding specific days or times. It would further place the burden of maintenance of this area upon the developers. Staff further stated that as of today, any of those businesses or dwelling units can occupy the public parking provided currently. Board Member Zeps stated that Bonner Springs is growing and that this parking issue is not going to go away as the community and surrounding areas grow and how we need to look at this moving forward. He then on to ask one of Mr. Davis, if the mitigation offered up by staff in the report was amicable to him. Mr. Davis stated that in his reading of the report, if the questions could not be answered in a positive manner, he felt they should not be approved without mitigation efforts written in.

Vice-Chair Clark stated he had a couple of questions. One, was regarding the restaurants that are currently across the street on Oak, and how many individuals utilize this parking area currently, what would stop them from using spaces provided by the new development.

The developers (**Chad Schimke and Wylie Salisbury**) approached the podium and spoke about the parcel. They stated that this parcel being public parking is a fallacy in its own right, the property is private and public parking is actually not allowed. They have not seen a need to enforce this but could easily go about it. They further stated, they have worked very closely with staff to come up with solutions to the problem. They spoke of the fact that they can very easily and, would more than likely, provide parking stickers to the residents. One specific to parking on-site and one specific to the off-site parking. They stated staff would need to assist in the matter of parking just due to the nature of individuals. They stated that during their meeting and discussions with current business owners within downtown, that the parking issue was present prior to this proposed development and will continue after the development is completed.

Board Member Zeps asked if parking stickers were utilized, is this policeable within our regulations currently. Staff stated, no, that the regulations would need to be rewritten in order to make it enforceable. Staff further stated that as it sits today, they are not required to provide all of the parking on their site. Section 7 addressed the fact of parking within 500 feet and how it is currently allowed today as written, what they are requesting is a reduction in the number of spaces they would need to provide for their development.

Staff stated that the recommendation provided by staff was for 1.5 spaces for two-bedroom units and 1 space for all other types of units (studio and one-bedroom). This was more than the applicant could provide on-site but not more than the City could provide off-site.

Vice-Chair Clark wanted to clarify that outside of the spaces provided, it becomes more of an enforcement matter that is out of the purview of the Board. The developers stated they are all in favor of enforcement, owning a business directly across the street currently, they understand the need for parking enforcement of some kind. The developers further stated that they took the parking dilemma into serious consideration, knowing that it could become a potential issue.

The developers began to discuss the height and how this area is one of the lowest elevations in the city and how the fourth floor would be lower than most points along downtown. They further stated they felt the limit of three-story was more than likely put in place due to the fire truck limitations at the time, understanding that most fire apparatus could not reach above three stories in the past. They went on to discuss the limited commercial space along the street level. Due to the nature of the new construction costs, the rent would need to be significantly higher for businesses wanting to locate within the building compared to a building that is renovated. They further stated they wanted to construct a facility that would benefit the existing commercial businesses in downtown and not compete against them.

Chair Mesmer stated that his concern revolved around the limited parking as well. He stated that when Urban Renewal came through the property actually turned to private property but was never fenced off or built on and people took the space for granted to park on. He further stated that this will more than likely create some issues but can easily be addressed through parking permit stickers or similar mechanisms.

Board Member Zeps stated that through enforcement the parking issue should be easily addressed.

Board Member Neff stated that parking was her major concern as well and through the questions asked by other members and the responses given, her concerns had been addressed.

The developers stated they are more than willing to work with staff and law enforcement to manage the parking issues that may occur. They wanted to address the new articles as well, they stated those news stories had not come from them and were picked up more than likely, due to Representative Sharice Davids and her involvement in the grant money awarded.

Chair Mesmer asked for a motion on request number one – an increase in the allowed height within the C-1; Central Business District.

Board Member Zeps asked if we address the parking situation through this process and how it should be dealt with, staff stated that the request in front of them regarding parking is only to allow for a reduction in the required amount and does not pertain to any specific area in which parking is allowed. As the regulations are written today, they are allowed to park off-site with no limitations. The request is to reduce the required number of spaces needed. The request would be for 124 spaces plus 10% for visitors vs. the required 200.

Board Member Zeps made a MOTION to **approve** request number one, allowing for an increase in height to four stories. Vice-Chair Clark **SECONDED** the motion.

A roll call vote was requested by Chair Mesmer.

AYE- Zeps, Clark, Neff, Mesmer

NAY –

**MOTION PASSED 4-0**

Board Member Zeps called for a MOTION to **table** request number 2 until staff and the developers could hash out the enforcement process regarding parking. Staff stated, the request was for a reduction in the number of spaces required on-site and had nothing to do with the location. We can not dictate where parking takes places as long as it is within the 500 feet allowed by the regulations currently. Staff stated they were working with and would continue to work with the developers regarding where parking should be allowed and how to go about enforcement if necessary. Staff stated that if the developers were to come in today and construct what was allowed by regulations, that we could not dictate where parking was allowed other than placing deed restrictions on city owned parking lots.

Chair Mesmer asked how can we keep the public from parking in spaces delegated to the development. Staff stated we could place signs that designate certain parking areas, Mesmer stated this would work well for their property but how about the city owned parking lot. Staff stated that per the Ordinance, we would essentially be deeding over a portion of our lot to the development with certain restrictions placed upon the area. Staff further stated that they are working with and will continue to work with the developers on the parking restrictions until an amicable resolution is obtained.

After the discussions had, Board Member Zeps rescinded his MOTION to **table** the item. Vice-Chair Clark made a MOTION to **approve** request number 2 allowing for a reduction in parking that consists of 1.5 spaces for each two-bedroom unit and 1 space for each studio and one-bedroom unit along with an additional 10% for visitor parking, totaling 124 spaces, 97 of which are to be provided on-site. Board Member Zeps **SECONDED** the motion.

A roll call vote was requested by Chair Mesmer.

AYE- Zeps, Clark, Neff, Mesmer

NAY –

**MOTION PASSED 4-0**

Chair Mesmer called for a motion on request number 3 – the limited use of ground floor areas for commercial space as required in the C-1; Central Business District.

Board Member Zeps made a MOTION to **approve** the request as presented in the staff report. Vice-Chair Clark **SECONDED** the motion.

A roll call vote was requested by Chair Mesmer.

AYE- Zeps, Clark, Neff, Mesmer

NAY –

**MOTION PASSED 4-0**

With this action Chair Mesmer adjourned the meeting at 7:05pm