

## MINUTES

**HARRISBURG PLANNING COMMISSION  
REGULAR MEETING  
OCTOBER 7, 2009  
THE MARTIN LUTHER KING, JR. CITY GOVERNMENT CENTER  
PUBLIC SAFETY AUDITORIUM, ROOM 213**

**MEMBERS PRESENT:** Joseph Alsberry, Chair  
Calobe Jackson, Jr.  
Shaun E. O'Toole  
Ronnie G. Shaeffer

**MEMBERS ABSENT:** Vern McKissick, III, Vice-Chair

**STAFF PRESENT:** Candace Stowell, Deputy Director for Planning  
Jennifer Boyer, Zoning Officer

**OTHERS PRESENT:** Ms. Alice Mitinger, Esq. Thorp Reed & Armstrong, LLP  
Mr. Joe Kerner, Manager of Parks Van & Storage  
Mr. Bart Williams, owner and President of Parks Van & Storage  
Ms. Elsie Caldwell, 922 South 15<sup>th</sup> Street,  
Mr. Albert Davis, 1516 Randolph Street  
Captain Richard Pickles, Police Bureau  
Ms. Albertha Campbell and L.P. White, 1416 Randolph Street  
Mr. Larry Brown, Sr. and Ms. Nicole Brown, owners of 1215  
Walnut Street  
Mr. David Wise, 1201 Walnut Street, President of Summit Terrace  
Neighborhood Association  
Mr. Brian Humphrey, 27A North Summit Street

**CALL TO ORDER:** 6:40 P.M.

**MINUTES:** Minutes of the regular meeting on September 2, 2009 were approved. The motion was made by Commissioner Jackson, seconded by Commissioner Shaeffer, and approved unanimously (3-0) (Commissioner O'Toole was not present for the vote).

**NEW BUSINESS:**

- 1. Special Exception for 913-923 South 14th Street, 1411-1413 Randolph Street, 1412-1414 Revere Street, located within the Light Industry (ML) zoning district, filed by Parks Van and Storage, Inc (to construct a nine-foot high chain link fence with barbed wire around the business that is abutting a residential zoning district).**

Ms. Boyer gave a synopsis of the Planning Bureau report. Ms. Alice Mitinger, Esq. from Thorp Reed & Armstrong, LLP, Mr. Joe Kerner, Manager and Mr. Bart Williams, owner and President of Parks Van & Storage, represented the case. Ms. Mitinger stated that the applicant is amenable to the conditions listed in the staff report. Ms. Mitinger stated that there was confusion with the original building permit, and that the applicant is coming before you for the Special Exception relief after-the-fact. Ms. Mitinger said that Parks Van & Storage had details on their original site plan, which included the construction specifications for the fence; however, those plans were not submitted with the official building permit application. The applicant believes the confusion came from the fact that they received a quote for the work on the fence from a different company than who was doing the rest of the improvements.

Ms. Mitinger said the landscaping that is on the property now consists of low shrubbery, but the applicant is willing to put in the additional landscaping. Ms. Mitinger noted that the applicant does feel the barbed-wire fencing is necessary to provide adequate safety and security to their business.

Ms. Mitinger noted concern regarding one of the conditions of approval listed in the Planning Bureau staff report. The condition stated that the gated entrance along Randolph Street shall be used for emergencies only. The applicant has been in business for many years, and the entrance on this side of Randolph Street has always existed. The drivers use the driveway to get their trucks into the loading dock. Trucks will also use this area to turn left out of the property onto Randolph Street.

Commissioner Alsberry noted that he feels the barbed-wire should be removed. Mr. Williams noted that they have actually been in business since 1972. They have had security issues in the past, but can fix this if it is an issue. Mr. Williams also noted that the property was once owned by Unique Van Lines and that there was a fence along 130 feet of the property. The new fence replaces what once existed, with an additional 30 feet of new fencing. Staff noted that pictures taken from the Dauphin County Tax Assessor's office from 1999 and 2000 do not show a fence on the properties.

Commissioner Alsberry asked staff to list the requirements of fences and barbed-wire features, as stated in the Planning and Zoning Code. Staff noted provisions pertaining to fences, as stated in the Planning and Zoning Code. Ms. Mitinger noted that the fence is constructed around the properties that are located in the ML district. The other properties owned by the applicant are where the existing berm is located, and they are zoned residential.

Commissioner Alsberry asked if anyone from the public would like to speak in favor or in opposition to the project. Ms. Albertha Campbell spoke in opposition to the project. Ms. Campbell stated that in 1991 some of the neighbors went to a City Council meeting to oppose an application regarding the rezoning of the applicant's properties. City Council denied this Zoning Amendment request. Ms. Campbell wanted some clarification regarding letters that were sent to the applicant from City staff concerning the use of the property in 2007, and the building permit that was submitted in 2008. Ms. Campbell thought the Light Industrial (ML) zoning district meant that only smaller

commercial trucks could be used on the property, and not tractor-trailors. Ms. Campbell also noted that it was her understanding that Capt. Pickles from the Police Bureau had met with the owners of Parks Van & Storage about the trucks using Revere Street and not Randolph Street.

Ms. Diane White spoke in opposition to the project. Ms. White wanted to know how long the business had been at this location and was it always zoned Light Industry (ML). Ms. White asked for the definition of the Light Industry (ML) zoning district. Ms. White also stated that she does not want to see barbed wire on the fence, and that the neighboring residents should not have to look at this as well.

Staff addressed the questions of Ms. White and Ms. Campbell. Staff noted that the properties listed in this case report are all zoned Light Industry (ML). City Council approved a Zoning Amendment request (Bill 18-1984) to rezone the properties of 1411, 1413 Randolph Street and 1412, 1414 Revere Street from R-4 to ML in 1984. Staff also noted that the applicant did come before City Council again in 1991 to request a rezoning of 1415, 1417 Randolph Street, 1416, 1418 Revere Street, and 1400-1408 Sycamore Street from R-4 to ML, but was denied that request. Staff provided a definition of the ML zoning district, as requested by Ms. White. Staff noted that a moving and storage businesses is a permitted use in this district, and the type of zoning district does not dictate the size of commercial vehicles that are permitted to be used by a business. The applicant can use tractor trailers for their business, and they do have the right to park them on their private property.

Ms. Elsie Caldwell also spoke in opposition to the project. Ms. Caldwell stated that while the properties are zoned ML, in 1977 Parks Van & Storage did not exist. The property was owned and operated by Mayflower, which Parks Van & Storage later purchased. Ms. Caldwell felt that at the rate in which the applicant's business has expanded, it should not be located in the ML zoning district. Ms. Caldwell said that ever since the fence was erected, people have congregated at this location, and they try to hide between the trucks. This has brought crime into the neighborhood. In addition, since the berm had been built up, it now blocks the view of the trucks. This is a problem, because the trucks idol in the parking lot at all hours of the night, creating a lot of noise. Ms. Caldwell feels the recent changes to the applicant's properties have defaced the value of the other properties in the neighborhood. Ms. Caldwell also stated that the Parks Van & Storage employees leave trash behind on other properties, such as rolls of tape and other items. Ms. Caldwell stated that this is not acceptable. Commercial and residential owners should be able to co-exist peacefully beside one another, and this is no longer the case. Industrial businesses should not be located beside residential properties.

Captain Richard Pickles from the Police Bureau spoke about the project. Capt. Pickles stated that the access from Randolph Street existed in the past so that box trucks could access the loading dock. With the renovations, all sizes of trucks can access the loading dock from Revere Street. Capt. Pickles also stated that in the original plans the mound was to wrap around the property on the Randolph Street side and have proper vegetation to block the view of the property.

Ms. Mitinger stated that she and her clients appreciate all the comments. Ms. Mitinger stated that while the 14-foot high trees do not make sense to have around their property, the applicant is willing to put in dense vegetation.

Commissioner O'Toole moved and Commissioner Shaeffer seconded the motion to approve the request with the conditions and for the reasons listed in the staff report. The motion was adopted by unanimous vote (4-0).

**2. Special Exception for 1215 Walnut Street, located within the Residential Single-Family Zone D (R1D) zoning district, filed by Larry Brown, Sr. (to expand the hours of operation of the non-conforming neighborhood grocery store from Monday - Saturday 7:00 a.m. - 9:00 p.m. to Monday - Saturday 7:00 a.m. - 11:00 p.m. and Sunday 9:00 a.m. - 9:00 p.m.).**

Ms. Boyer gave a synopsis of the Planning Bureau report. Ms. Nicole Brown and Mr. Larry Brown, Sr. are owners of 1215 Walnut Street and they represented the case. Ms. Brown said that they disagree with the report of the Planning Bureau. Ms. Brown stated that since opening the store on August 21, 2009 they have had a good reception from the neighborhood. Ms. Brown provided the Commissioners and staff with copies of a signed petition by customers of their store, supporting the proposed expanded hours. Ms. Brown indicated that there is a barbershop across the street that is open until at least 11:00 p.m. The extended store hours would not supersede the hours of operation for other commercial establishments in the neighborhood.

Commissioner Alsberry asked if anyone from the public would like to speak about this project. Mr. David Wise, President of the Summit Terrace Neighborhood Association spoke in opposition to the project. Mr. Wise stated that the neighborhood association is opposed to the expansion of the store hours. Mr. Wise noted that there were new homes constructed as part of a plan to increase home ownership in the neighborhood. There has been a past history of convenience store robberies in neighborhoods. Mr. Wise is worried that if the store were to remain open for longer periods of time, it would increase the potential of having criminal activity come into the neighborhood. Mr. Wise stated that most other stores in this area close before 9:00 p.m.

Mr. Brian Humphrey spoke in favor of the extended store hours. Mr. Humphrey stated that the applicants have made a good investment in the property and the community. Mr. Humphrey said the new owners have made the store secure with the use of security cameras and bullet-proof glass. Mr. Humphrey also stated that Mr. Brown has been very helpful to other neighbors in regards to picking up trash. Mr. Humphrey also said that other stores along Market Street are open until midnight, and as late as 3:00 a.m.

Commissioner Jackson asked if the extra security measures were in operation the entire time or just certain times of the day. Mr. Brown stated that they do have a permanent Plexiglas wall in front of the counter at all times. The customer and the store clerk exchange money through the glass enclosure.

Commissioner O'Toole asked if the store was open on Sunday. Ms. Brown said the hours of operation are Monday - Saturday 7:00 a.m. - 9:00 p.m. Commissioner O'Toole stated that he has respect for Mr. Wise and the neighborhood association, but would like to see a compromise on the hours.

Commissioner Alsberry asked if the additional two hours during the week would make a difference. Mr. Brown stated that yes, it will. Many people ask why they close so early at night, and when will they be open on Sunday.

Commissioner Shaeffer asked if everyone who signed the petition is over 18 years of age. Mr. Brown stated that no children signed the petition.

Mr. Wise stated that it is the job of the neighborhood association to help improve the quality of life for low-income families. The store is already open until 9:00 pm., which is late enough for a non-conforming use. The goal of the neighborhood association is to increase home ownership in the area. Perception goes a long way, and right now there is a zero crime rate, which increases the opportunity for people to move into the area. Ms. Brown asked to speak about Mr. Wise's comments. Ms. Brown stated that before they come into the neighborhood, there were drug dealers on the corner of the street by their property. By opening the store and installing security cameras, they have reduced the amount of criminal activity that takes place on this corner. The zero crime rate is not factual, based on conversations at previous Summit Terrace Neighborhood Association meetings.

Commissioner O'Toole asked what was being done to prevent crime in the neighborhood. Mr. Brown noted that he does know most of the people in the neighborhood, and they do not disrespect his property. In addition, security cameras have been installed inside and outside the property, 10 cameras in total. The property is protected by a security system, and the Plexiglas wall has been installed for the safety of the store clerk.

Mr. Wise stated that the neighborhood association will continue to oppose the use of this property as a convenience store. Mr. Wise stated that the extension of the store hours does not do any good to help the economic interest of the store, nor does it protect the neighborhood. It just increases the probability of the store getting robbed.

Commissioner Alsberry addressed the applicant, stating that the Planning Commissioners must recognize everyone in the neighborhood, and they do want to know their positions on the case. Mr. Wise is the President of the Summit Terrace Neighborhood Association, and as the President he speaks for the majority of the group.

Commissioner O'Toole again noted his respect for Mr. Wise and the Summit Terrace Neighborhood Association. Commissioner O'Toole made a motion to amend the recommendation of denial by the Planning Bureau staff, and recommend a conditional approval. The conditions of the approval are as followed:

1. The hours of operation shall be extended until 10:00 p.m. on Friday and Saturday and Sunday from 9:00 a.m. – 9:00 p.m.
2. The applicant must continue to take reasonable steps to deter and minimize crime in the neighborhood, and must retain usage of the security cameras and Plexiglas wall around the clerk's counter.

Commissioner O'Toole moved and Commissioner Jackson seconded the motion to approve the request with the conditions and for the reasons as amended. The motion was adopted by a vote of (3-1). Commissioner Shaeffer opposed the motion, because of Mr. Wise's comments, and felt that the existing store hours should remain in place.

3. **Re-Use of Blight Certified Property for 1613 Chestnut Street, located within the Residential Zone No. 5 (R-5) zoning district, filed by Harrisburg Property Reinvestment Board (to certify that the re-use of blight certified property is in conformance with the General Plan of the City of Harrisburg).**

Commissioner Shaeffer noted that he was not present at the meeting to hear the case, but did concur that the property is certified as blighted. Commissioner Shaeffer moved and Commissioner Jackson seconded the motion to approve the request for the reasons listed in the staff report. The motion was adopted by unanimous vote (4-0).

**ADJOURNMENT:**

Commissioner Shaeffer moved and Commissioner Jackson seconded the motion to adjourn. The meeting adjourned at 8:00 P.M.