

**Minutes of the Zoning Board of Appeals  
Of the City of Portland**  
Held on Monday, September 14, 2015 at 7:00 P.M.  
In Council Chambers at City Hall

Members Present: Barnes, Graham, Fedewa, Parsons

Absent: Stahl

Staff: City Manager Gorman, City Clerk Miller

Guests: Ricardo Biella, Clare Linderman, Jeff Brinks of Williams & Works, Bob VanLente

City Clerk Miller called the meeting to order at 7:00 P.M.

City Clerk Miller opened the floor for nominations for Chair.

Motion by Graham, supported by Parsons, to nominate Barnes as Chair.

There were no other nominations.

The vote for Barnes as Chair was held.

All in favor. Approved.

Chair Barnes opened the floor for nominations for Vice-Chair.

Motion by Barnes, supported by Fedewa, to nominate Graham as Vice-Chair.

There were no other nominations.

The vote for Graham as Vice-Chair was held.

All in favor. Approved.

Chair Barnes opened the floor for nominations for Secretary.

Motion by Graham, supported by Fedewa, to nominate Parsons as Secretary.

There were no other nominations.

The vote for Parsons as Secretary was held.

All in favor. Approved.

There were no public comments.

Motion by Graham, supported by Fedewa, to approve the proposed revised agenda as presented.

All in favor. Approved.

Motion by Graham, supported by Fedewa, to approve the minutes of the August 10, 2015 meeting with grammatical corrections.

All in favor. Approved.

Chairman Barnes opened the Public Hearing at 7:03 P.M.

City Manager Gorman explained that Ricardo Biella is requesting a variance of 26 parking spaces from the off-street parking requirements for the C-3 District [Section 42-186(c)] for the building located at 1417 E. Grand River Ave.

City Manager Gorman provided proposed language the Planning Commission recommended to the City Council for consideration to amend this section of the Zoning Ordinance. This is not a unique situation to Olivera's. The proposed amendment would eliminate parking spaces required based on floor space not used for seating and for each employee. Instead parking spaces would be required for each employee reasonably expected to work during the anticipated peak hours and would be based on a calculation of the area devoted to seating.

Clare Linderman presented the criteria for the variance request stating that Olivera's will construct a facility to accommodate 135 patrons and will add 29 parking spaces to the existing parking lot for a total of 59 parking spaces. Under the current Ordinance, 85 parking spaces are required. A variance of 26 parking spaces is being requested.

Under Criterion #1, strict compliance to the current ordinance makes the use of this property prohibitive for the intended purpose.

Under Criterion #2, the fixed dimensions of the property make it impossible to meet the required parking spaces.

Under Criterion #3, justice to Olivera's would be the development of its concept in the Portland community. Justice would also be served to the surrounding area based on the improvement of the existing property.

Under Criterion #4, the problem is created by the shape and size of the property which was already in existence.

Under Criterion #5, based on the use of the property the requested variance would not adversely affect either property to the east or west. In fact, it would enhance their properties and bring greater exposure based on the number of patrons that would visit Olivera's. The additional spaces that will be created will be adequate to sustain business.

City Manager Gorman stated that Olivera's is planning to add a curb cut to the car wash property adjacent to 1417 E. Grand River Ave. to allow traffic to access Bristie St. George Vroman, the owner of the car wash, was in attendance at the last Zoning Board of Appeals meeting and expressed his support for this project and the curb cut.

The Public Hearing was closed at 7:19 P.M.

Chairman Barnes opened the Public Hearing at 7:20 P.M.

City Manager Gorman stated that Jeff Brinks of Williams & Works has requested a variance from the off-street/front yard parking requirements for the C-3 District [Section 42-408 (b)] on behalf of McDonald's for the property at 1432 E. Grand River Ave.

Mr. Brinks presented the criteria for the variance request and stated the requested variance would facilitate the efficient and orderly operation of the business following the demolition of the existing restaurant to provide improved function that will benefit both McDonald's customers and motorists using the City streets.

Under Criterion #1, conformance with the parking setback standards would be unnecessarily burdensome due to the nature of McDonald's business which is driven by the convenience of both parking and drive-thru facilities. In order to provide a safe and consistent experience for customers, the parking arrangement and vehicle circulation needs to be arranged in an understandable manner, with parking in close proximity to the main entrance. The redevelopment of the property and the desire to consolidate and improve access to and from Grand River Ave. requires that the building and parking be oriented in a manner that causes the parking to be placed in the front yard setback. In this specific situation, the zoning requirement is unduly burdensome in allowing McDonald's to function at its best.

Under Criterion #2, the conditions which require the requested variance are unique to this property due to the fact that it is a unique property. The existing McDonald's property is too shallow to allow for efficient re-development in its current configuration. The current development has multiple drives and frequent back-ups of drive-thru traffic. The unique shape of the property, the fact that it is a corner lot, and that it has significant road frontage makes strict compliance with the ordinance untenable.

Under Criterion #3, granting of the variance would do substantial justice to the applicant as well as other property owners and the City generally. As proposed, the redevelopment will reduce curb cuts to Grand River Ave., improving circulation on McDonald's property as well as providing improved traffic flow on both Grand River Ave. and Bridge St.

Under Criterion #4, the problem was not created by the applicant. McDonald's has been at this location for 37 years. They desire to continue to be successful and to have a positive impact on the community and so have purchased additional, underutilized property that will improve the location they are in for themselves as well as for the community. The additional property is bounded by McDonald's and City streets. The combination of the new parcel with the existing McDonald's results in a property with fixed dimensions that must be accommodated by the proposed redevelopment.

Under Criterion #5, the granting of the requested variance is not in conflict with the spirit of the City's Zoning Ordinance. McDonald's will be removing an existing blighted property, removing multiple driveways, and constructing a continuous sidewalk along the Grand River Ave. and Bridge St. frontages. McDonald's will be improving open space and redesigning the property layout to provide a more orderly and better functioning development. Access will be greatly improved helping both the business and the traveling public. McDonald's will be removing existing, underutilized buildings and infrastructure and improving the landscaping and open space within the property. McDonald's will be removing multiple curb cuts and placing access away from the

intersection which will help reduce congestion on public streets as well as on McDonald's property. McDonald's is reducing the number of structures and needed services by removing an existing blighted facility. McDonald's is redeveloping existing properties. Public improvements and services are currently available and do not need to be extended.

Member Parsons asked if the curb cut to the adjacent Tom's Food Center property shown on the site plan would be made.

Mr. Brinks stated that in looking at the Grand River Access Plan they included the curb cut on the site plan to indicate McDonald's willingness to make the connection to the adjacent property.

The Public Hearing was closed at 7:30 P.M.

Under New Business, the Board considered the variance request from the off-street parking requirements for the C-3 District [Section 42-186 (c)] for the building located at 1417 E. Grand River Ave.

Motion by Graham, supported by Fedewa, to grant the variance request of 26 parking spaces from the off-street parking requirements for the C-3 District [Section 42-186 (c)] for the building located at 1417 E. Grand River Ave.

Yeas: Graham, Fedewa, Parsons, Barnes

Nays: None

Absent: Stahl

Approved.

The Board considered the request from the off-street/front yard parking requirement for the C-3 District [Section 42-408 (b)] for the building located at 1432 E. Grand River Ave.

Motion by Graham, supported by Fedewa, to approve the variance from the off-street/front yard parking requirement for the C-3 District [Section 42-408 (b)] for the building located at 1432 E. Grand River Ave. as requested.

City Manager Gorman noted that City staff does discuss with applicants why Ordinances cannot be adhered to. Other possibilities are considered.

The vote for the motion on the floor was held.

Yeas: Graham, Fedewa, Parsons, Barnes

Nays: None

Absent: Stahl

Approved.

Under Board Member Comments, Member Graham welcomed new Member Parsons.

There was discussion with Mr. Brinks about the construction process and McDonald's operations.

Motion by Parsons, supported by Fedewa, to adjourn the meeting at 7:44 P.M.

Yeas: Parsons, Fedewa, Graham, Barnes

Nays: None

Absent: Stahl  
Adjourned.

Respectfully submitted,

---

Kathy Parsons, Secretary