

**Minutes of the Zoning Board of Appeals
Of the City of Portland**

Held on Monday, November 9, 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: Clare Linderman and Liz Harrow representing Olivera's

Chair Barnes called the meeting to order at 7:00 P.M. with the Pledge of Allegiance.

There were no public comments.

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

Yeas: Parsons, Graham, Fedewa, Barnes

Nays: None

Absent: Stahl

Approved

Motion by Fedewa, supported by Graham, to approve the minutes of the October 12, 2015 meeting as presented.

Yeas: Fedewa, Graham, Parsons, Barnes

Nays: None

Absent: Stahl

Approved

Chairman Barnes opened the Public Hearing at 7:01 P.M.

City Manager Gorman explained that an 8' variance from the front setback is being requested for Olivera's at 1417 E. Grand River Ave. He presented a diagram that showed the exceptional narrowness of the property that has prompted the previous variance requests.

Ms. Harrow stated that the owner of Olivera's would like to construct a patio on the front of the building that would be enclosed and protected. They plan to leave the access to Rite Aid at a width of 24'.

City Manager Gorman stated the patio would be constructed over the current sidewalk with 2-3' that would be added into the driveway to Rite Aid.

Ms. Harrow stated that the building was previously designed for fast food with higher traffic flows. The proposed plan for Olivera's is for a sit down restaurant with less traffic flow than a fast food restaurant. The curb appeal and more intimate setting will slow down traffic.

Chair Barnes asked if the pass through to Rite Aid can be eliminated.

Ms. Harrow stated there is an easement that was previously agreed upon between Rite Aid and the previous developer.

City Manager Gorman stated the City engineers have advised this pass through is helpful in controlling the proper traffic flow at the street light at Grand River Ave. and Bridge St. They have further recommended that the pass through maintain at least two 10' lanes. If the variance request is granted then two 12' lanes will be in place.

City Manager Gorman further noted that the original easement between Rite Aid and developer of the Taco Bell property has been located.

Ms. Harrow presented the criteria for the request.

Under Criterion #1, the property is exceptionally narrow and the location of the building on the lot does not allow enough space between the setback line and the front of the building. To provide the outside patio across the front of the building, a reduction in the setback requirement of 8' is needed.

Under Criterion #2, the property, although fairly large in area, has a relatively small frontage on Grand River. If the variance is not granted the location of the existing Taco Bell building on the lot, would make the space in front of the building unusable for the construction of a front patio.

Under Criterion #3, justice to Olivera's would be the development of our concept within the Portland Community. Justice to the other property owners would be the upgrading of the Grand River Ave. corridor based on the Olivera's building façade and landscaping. Based on the existing buildings that grace the corridor Olivera's would be a "breath of fresh air".

Under Criterion #4, the problem is simply the shape of the property, and the location of the existing building on the lot which is not the fault of Olivera's.

Under Criterion #5, it is their belief that the ordinances are written to broadly control development, which is good. Uncontrolled development usually creates more problems than the development provides in benefits. Based on the use of the lot by Olivera's, the proposal would not adversely affect either of the properties on the east or west but would in fact enhance their properties. The image of patrons enjoying a lunch or dinner outside by drivers on the Grand River Ave. would entice people to drive in exposing the businesses on both sides to more potential customers. The visual appearance of Olivera's alone would bring more attention to the adjacent properties.

Chair Barnes asked if there is a shared parking agreement with Rite Aid.

City Manager Gorman stated there is not a shared parking agreement but there is an easement of shared access.

Ms. Harrow stated that an easement/agreement has been executed and filed with the owner of the car wash property granting access through the property to Bristle St. and for shared parking.

Chair Barnes closed the Public Hearing at 7:17 P.M.

Under New Business, the board considered the variance request of 8' from the minimum setback for the C-3 District [Section 42-186 (b)] for the building located at 1417 E. Grand River Ave.

Motion by Graham, supported by Parsons, to approve the variance request of 8' from the minimum setback for the C-3 District [Section 42-186 (b)] for the building located at 1417 E. Grand River Ave. as requested.

Yeas: Graham, Parsons, Fedewa, Barnes

Nays: None

Absent: Stahl

Approved.

Motion by Fedewa, supported by Graham, to adjourn the meeting at 7:19 P.M.

Yeas: Fedewa, Graham, Parsons, Barnes

Nays: None

Absent: Stahl

Adjourned.

Respectfully submitted,

Kathy Parsons, Secretary