

OFFICE OF THE CITY ADMINISTRATOR

Subject: Recommendations for ZBA Meeting of August 21, 2023

Item 1 CALL TO ORDER

Item 2 ROLL CALL

Prerogative of the Chair to request the City Clerk to take attendance.

Item 3 ACCEPTANCE OF THE AGENDA Prerogative of the Zoning Board of Appeals that all items on tonight's agenda be received, placed on file, and taken in order of appearance.

Item 4 PUBLIC HEARING – PARKING VARIANCE: AHEE JEWELERS, 20139 MACK AVENUE

Open the Public Hearing. Receive and place on file all communications pertaining to this request. Hear any comments, first in support of, second in opposition to, the request. Close the Public Hearing.

The Petitioner, Ahee Jewelers, is requesting a variance for off-street parking spaces proposed as part of a Site Plan for 20139 Mack Avenue. The applicant has requested to construct a one-story addition to the existing retail store, demolish an adjacent retail building, and relocate a parking lot. The addition is to accommodate a display from the Patek Philippe Collection.

The Planning Commission approved the updated site plan from July 25, 2023. The update addressed six (6) out of seven (7) recommended changes, however, one change they were unable to accommodate was providing additional off-street parking spaces. Therefore, a variance is required to exempt the property from providing the required off-street parking as required by the Zoning Ordinance.

A variation or modification is permitted for required off-street parking spaces, if, after investigation by the board, it is found that such variation is necessary to secure an appropriate development based on peculiar or existing conditions, or is of such size, shape or dimension, that it cannot be reasonably developed in accordance with the provisions of this section. The variation must be consistent with the spirit and purpose of the Ordinance, with public safety and with substantial justice. A variance should be granted based on practical difficulty.

To prove practical difficulty, the petitioner must demonstrate that all of the following conditions are met:

- a. That strict compliance with the restrictions governing area, setbacks, frontage, height, bulk, density, and other similar items would render conformity with said restrictions unnecessarily burdensome;

- b. That a variance would do substantial justice to the petitioner as well as to other petitioners in the zoning district; or whether a lesser relaxation of the restrictions would give substantial relief to the petitioner and be more consistent with justice to others (i.e., are there other more reasonable alternatives);
- c. That the plight of the petitioner is due to unique circumstances of the property;
- d. That the petitioner's problem is not self-created;
- e. That the spirit of this chapter will be observed, public safety and welfare secured, and substantial justice is done.

Given that the property is limited in its ability to expand based on occupied neighboring commercial and residential buildings or the strict amount of additional floor space, the business needs to accommodate merchandise from the Patek Philippe Collection, there is viable practical difficulty for the Board to consider a variance.

The Building Official recommends granting this variance as a case can be made to justify the findings of a practical difficulty as described in the variance standards.

I concur with his recommendation.

Prerogative of the Zoning Board of Appeals as to action taken.

The following motions are suggested:

Motion to Grant Variance: That the Zoning Board of Appeals grant a variance from Sec. 50-5.3 to exempt the property, 20139 Mack Avenue, from providing the required off-street parking as the finding of practical difficulty has been shown to the variance standards.

Motion to Deny Variance: That the Zoning Board of Appeals deny the request for a variance submitted under Sec. 50-5.3 to exempt the property, 20139 Mack Avenue, from providing the required off-street parking as the finding of practical difficulty has not been shown to the variance standards.

Item 5 NEW BUSINESS/PUBLIC COMMENT

Item 6 IMMEDIATE CERTIFICATION OF MINUTES Prerogative of the Zoning Board of Appeals to immediately certify tonight's meeting minutes.

Item 7 ADJOURNMENT

Respectfully submitted,



Frank Schulte
City Administrator