

PLANNING & ZONING BOARD MINUTES
January 14, 2019

Planning and Zoning Board Members:

Chris Rader, Vice-Chair (Quorum)
David Gragg, Board Member
Marion Rayburn, Board Member
Aileen Trivedi, Board Member (absent)

Staff:

Drew Smith, City Attorney
Ellen Hardgrove, City Planner
Sandra Riffle, Deputy City Clerk
Nicolle Crock, Police Officer
Robert Brahm, Police Officer

Applicant:

Stephen Allen, Civil Corp Engineers
Pat Kennedy, The Waterfront
Kyle Alberts, The Waterfront

CALL TO ORDER

Vice-Chairman Rader called the Planning & Zoning Board meeting to order at 6:30 p.m. and led the Pledge of Allegiance.

Deputy City Clerk Riffle announced that there was a quorum with Board Member Trivedi absent due to a work meeting. Chairwoman Dunay submitted her resignation effective 12/31/2018.

APPROVAL OF MINUTES

- *November 12, 2018*

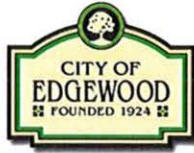
Vice-Chairman Rader asked for a motion

Board Member Gragg moved to approve the minutes as presented; Second by Board Member Rayburn. The motion was approved (3/0).

NEW BUSINESS

- **Variance requests 2018-VAR-07, 2018-VAR-08, and 2018-VAR-09 and 2018-VAR-10 for The Waterfront at 4201 S. Orange Avenue.**

City Planner Hardgrove introduced four variance requests for The Waterfront, an existing restaurant, located at 4201 S. Orange Avenue. Variance request 2018-07, 2018-08 and 2018-09 were tabled during the November 12, 2018 Planning and Zoning for further discussion at this meeting.



1. **Variance 2018-07** - The applicant is requesting a variance to provide a minimum two (2) feet wide landscape buffer between a vehicular use area and public right-of-way in lieu of a minimum of seven (7) feet.
2. **Variance 2018-08** is a request for reduction in tree placement. This application is rescinded by the applicant as Code can now be met.
3. **Variance 2018-09** - the applicant is requesting a building setback distance from the normal high water elevation of the adjacent water body be reduced from 50 feet to 20 feet.
4. **Variance 2018-10** - the applicant is requesting to allow for one parking space for each four (4) seats in lieu of one parking space for each four (4) seats plus one space for each seven (7) square feet of floor area to provide for patron use which does not contain fixed seats. This pertains to areas where people are waiting, at the bar and around the lake.

Planner Hardgrove reminded the Board that this is not site plan review and how the parking spaces are designed will come back later for site plan review.

Conversation ensued amongst the Board regarding the building addition and unseated spaces/standing area at the bar. The Board needs to decide if the full parking calculation will be used. Vice-Chairman Rader voiced his concern about approving a variance when all the information is not available especially as they are requesting a large addition to seating.

In response to Board Member Gragg regarding the setback, Planner Hardgrove said that the restaurant is currently nonconforming and this would be an increase in the encroachment.

Vice-Chairman Rader asked for comments from the applicant.

Steve Allen, PE CivilCorp Engineering, Inc.

In response to Planner Hardgrove, Engineer Allen said a variance is requested to bring the deck over the retention area. The deck is still considered to be a structure per Attorney Smith. Engineer Allen said that he didn't consider the deck to be a structure and that the NHWE narrows in on that side.

Per Engineer Allen, Variance 2018-07, for the buffer, is an existing condition. The business is constrained by the drive aisle and the building location in order to comply with circulation on the other side. Parking is out of control right now and the request will help bring order and safety.

Planner Hardgrove confirmed to Board Member Gragg that the wall is for a parking/road buffer, and strongly recommended a 4 foot wall on the road side. Per Engineer Allen there is an existing knee high structure and they don't plan to make adjustments to that. Referring to her report, Planner Hardgrove said that this is similar to the Edgewood Central District (ECD) for parcels that have double frontage.

Mr. Kennedy and Mr. Alberts said they were fine with the Planner's recommendations.

Planner Hardgrove said that the buffer needs to be a minimum of two feet and that when it comes to the site plan, there are places that can be seven feet.

Vice-Chairman Rader verified with Attorney Smith that the deck is a structure. Attorney Smith said they can specify the variance for the deck.



Vice-Chairman Rader said parking is the biggest concern and success is going to propagate. Engineer Allen said they have an agreement with the Car Bar to provide valet services. Planner Hardgrove said the valet is in addition to meeting the onsite minimum. Board Member Gragg stated his concerns about customer safety.

Mr. Kennedy said they are making this application because they want to apply for the SRX liquor license. In response to Vice-Chairman Rader regarding how this would affect turnover, Mr. Kennedy said that they already do 60% to 40% food to alcohol ratio and they do not foresee changing to a bar. The minimum to qualify for this kind of license is 150 seats.

Vice-Chairman Rader asked for public comment.

Brett Barner, Edgewood resident – spoke about protection of the lake and the impact of the proposed changes.

Engineer Allen responded and said that there is no skirting the requirements and everything will be done properly. The lake is a focal point of the business.

Vice-Chairman Rader reviewed the 6 criteria of approval for a variance request.

1. 2018-07 Landscape buffer.

Board Member Gragg said they are able to meet the ECD and the partial wall is already there. Vice-Chairman Rader added they can capture the intent of the landscape plans that was presented.

Vice-Chairman Rader asked for a motion.

Board Member Rayburn moved to recommend approval of Variance 2014-07 with the recommendations of approval from the Planner's staff report; second by Board Member Gragg. The Motion passed (3/0).

2. Discussion of Variance 2018-09 - Setback from the NHWE

Vice-Chairman Rader would like to see double protection on the lakeside with curbing. Per Attorney Smith, they can put conditions on the motion, and when they present the site plan they will refer to the variance.

Vice-Chairman Rader referred to comments and said that they would be better with the lift station and the drain field and that is an improvement.

Attorney Smith stated concerns about anything that is built within the setback. Vice-Chairman Rader asked if there could be a condition of requirement for maintenance with reporting. Attorney Smith said they would be better off not tying reporting to a variance as there is nothing in code to allow the City to do anything. Per Vice-Chairman Rader it becomes Code Enforcement. Planner Hardgrove asked if that is a variance or a site plan issue.

In response to Vice-Chairman Rader, Planner Hardgrove said that she was not aware of any Code prohibiting a structure built on stormwater. Board Member Rayburn agreed that this is a concern.

The Board continued discussion of the parking lot and improving the current situation for capturing stormwater and the location of the deck. Vice-Chairman Rader stated that the



conditions that create the need are not created by the applicant, which was supported by Board Members Rayburn and Gragg. Board Member Rayburn added that this is not applicable to other lands.

At 7:52 pm Officer Crock was relieved by Officer Brahm.

Vice-Chairman Rader said they will need to condition the motion that any runoff caused by construction within the setback must be captured and treated by stormwater management system onsite.

Vice-Chairman Rader asked for a motion:

Board Member Rayburn moved to recommend approval of Variance 2018-09 with 3 conditions. 1. Any runoff caused by the construction must be captured and treated by stormwater management on site. 2. The site plan must include an additional layer of protection, such as curbing, to the north and east side of the parking lot. 3. The applicant must present a plan for containing and cleaning waste deposited by patrons into the lake. Second by Board Member Gragg. The Motion passed (3/0).

3. Discussion of Variance 2018-10 - parking calculation.

Planner Hardgrove said that the applicant is proposing to increase the quantity of parking spaces to 42 which may not include fixed seats used for patrons. Vice-Chairman Rader stated concerns about doubling the amount of seating in the restaurant of 150. Attorney Smith said seating capacity would be needed before the site plan. If the applicant is denied the variance request, they could not come forward within 6 months and ask again for that variance.

Planner Hardgrove said the applicant has done a lot of site plan work and the City can ask if there is an alternative solution. She added that there is a provision in code for offsite parking.

Mr. Kennedy returned to the podium and said they are looking for 150 seats and all of the improvements and asked if they could come back and continue the request.

Per Attorney Smith, as this would not be for time certain, it will need to be advertised

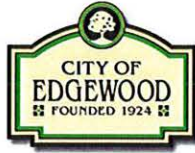
Vice-Chairman Rader asked for a motion.

Board Member Gragg moved that Variance 2018-10 be continued to a future date, to be determined; Second by Board Member Rayburn. The Motion passed (3/0).

COMMENTS/ANNOUNCEMENTS

Deputy City Clerk Riffle gave an update on pole sign compliance. Businesses with pole signs that have not removed their pole signs or submitted an application to City Hall by the deadline of January 31, 2019 will receive a Notice of Violation.

Vice-Chairman Rader spoke about the vacation of the chair and he would like to add the selection of a new chair on the next agenda.



ADJOURNMENT:

As there was no further discussion, Vice Chairman Rader asked for a motion:

Board Member Rayburn made the motion to adjourn the meeting; Second by Board Member Gragg. The motion was unanimously passed (3/0).

The meeting adjourned at 8:16 pm.

Chris Rader, Vice-Chair

Sandra Riffle, Deputy City Clerk