

**BOARD OF ADJUSTMENT
DESTIN CITY HALL BOARDROOM
WEDNESDAY, DECEMBER 8, 2021
5:30 P.M.**

1. CALL TO ORDER:

Chairman Weidenhamer called the Board of Adjustment Meeting to order at 5:30 p.m., on Wednesday, December 8, 2021, at Destin City Hall Boardroom.

2. ROLL CALL & PLEDGE OF ALLIGENCE:

Present:

Tom Weidenhamer
David Emerson
Daniella Piper
Cyron Marler
Kimberley Mergler
Robert Pinard
James Moomaw

Staff Present:

Kim Montgomery Deputy City Clerk
Steven O'Connor Principal Planner
Daniel Butler Senior Planner
Kyle Bauman City Attorney
Kimberly Kopp Land Use Attorney

3. APPROVAL OF MINUTES:

A. November 3, 2021

Chairman Weidenhamer moved to approve the minutes of the November 3, 2021 meeting as corrected with Vice Chair Emerson provided the second to the motion and the passed 4-0.

4. NEW BUSINESS:

A. 21-32-VR – 531 Mountain Drive Variance Request

The applicant, Stephen Tatum, Matthews & Jones, LLP, on behalf of ABC Amusement Co., is requesting variance request approval for relief from Land Development Code Section 8.09.03.A.4.c, which provides that the parking standards listed in Section 8.06.10 are considered parking maximums and not the minimum parking required. Parking minimums are eliminated within the Old Destin MMTD sub-area.

The City Attorney swore in the following people for testimony for the hearing:

Mike Abedi
Stephen Tatum
Alice Dearmon
Steven O'Connor
Daniel Butler

The City Attorney informed the audience that the applicant and staff have agreed to waiving the reading of the application into the record.

The Land Use Attorney entered into the record the agenda item staff report along with the four attachments with no objection.

Mr. Butler explained the details of the request: The applicant is requesting a variance from the following provisions from the Land Development Code (LDC): AGENDA ITEM CITY OF DESTIN – COMMUNITY DEVELOPMENT ITEM # 2021-4475 Article 8, Section 8.09.03.A.4.c ON-SITE PARKING: c. On-Site parking maximum - Providing parking in excess of the standards indicated in Section 8.06.10, Number of vehicle and bicycle parking spaces required of this Code is not permitted. The parking standards listed in Section 8.06.10 are considered parking maximums and not the minimum parking required. Parking minimums are eliminated within the Old Destin MMTD sub-area.

The applicant wishes to construct a boat storage and maintenance facility on the subject property, which will service, and store boats associated with the owner's livery business located at 530 Harbor Boulevard. Because of the relatively small footprint of the structure associated with boat storage and maintenance, which affects the maximum parking count, the project would only be allowed to construct four (4) parking spaces maximum. The applicant wishes to utilize the remainder of the site to construct 20 additional parking spaces, for a total of 24 parking spaces, if approved.

Regarding the findings, according to the Land Development Code (LDC) Section 2.25.03(C), to authorize upon such variance from the terms of any zoning ordinance, as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of such ordinance would result in unnecessary and undue hardship. Therefore, in order to authorize any variance from the terms of the conditions, the Board of Adjustment must find:

A. That special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

Applicant's response: The MMTD provides for a maximum number of parking spaces. The owner would like to construct a parking lot along with his allowed boat storage and maintenance site which will provide 20 more spaces than allowed by the code.

Staff Findings: There are no special conditions that exist in relation to the property. However, special conditions do exist when applying the MMTD against the proposed use given that sizable warehouse/office space is not needed for a boat storage and maintenance shop, which are peculiar to the structure. Due to the MMTD parking allowance, the use to square footage ratio, allowed parking is severely limited.

B. That special conditions and circumstances do not result from the actions of the applicant.

Applicant response: The maximum number of parking spaces allowed is beyond the control of the owner. Allowing more spaces will help alleviate the parking shortage in the Destin Harbor area and provide overflow parking for the owner's primary business located within 1200 feet of the subject parcel.

Staff Findings: The parking requirements within the city are based on the square footage of the gross floor area of the proposed structure. While the applicant does determine the size of the proposed structure, this type of business/use does not require an ITEM # 2021-4475 sizable structure/office to perform daily job duties/tasks, thus the parking requirement is minimal and further limited by the MMTD.

C. That granting the requested variance will not confer on the Applicant any special privileges denied by any zoning ordinance to other lands, buildings, or structures in the same zoning district.

Applicant Response: The applicant did not provide a response to Staff for this criterion.

Staff Findings: Granting this variance would provide the applicant relief from LDC Section 8.09.03.A.4.c. - On-site parking maximum. This LDC language sets a maximum amount of parking allowed rather than a minimum as seen elsewhere in the City of Destin.

D. That literal interpretation of the provisions of any zoning ordinance would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of any zoning ordinance, and would it result in unnecessary and undue hardship on the Applicant.

Applicant Response: The MMTD's parking maximum deprives the owner of his ability to provide additional parking within 1,200 feet of his primary business located at 530 Harbor Blvd.

Staff Findings: Given the MMTD parking requirement is applied to the entire Old Destin MMTD, the applicant is not being deprived of any rights commonly enjoyed by other properties within the zoning district. However, strict application of LDC 8.09.03.A.4.c. - On-site parking maximum does hinder the applicant from developing the property in a reasonable manner.

E. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

Applicant Response: Yes. The variance is the minimum necessary for the reasonable use of the property as overflow parking for the owner's primary business.

Staff Findings: The requested variance would allow the applicant to develop

additional/overflow parking in the North Harbor to support uses in the South Harbor. The site could likely fit more parking on-site. However, the applicant is requesting to construct 24 parking spaces, which is a reasonable use of the land. While the site is able to be developed in a number of other ways, the granting of this variance would simply allow the applicant to provide more parking than allowed by the LDC.

F. That the granting of the variance will be in harmony with the general intent and purpose of any zoning ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant Response: Yes. The variance will grant no special rights not already contemplated in the CTS zoning district, ITEM # 2021-4475.

Staff Findings: The CTS zone permits boat storage and maintenance, and the use is consistent with the Comprehensive Plan Policy 1-2.3.3: Commercial Trades and Services (CTS). Parking is a required element of any use or development within all zoning district within the City and therefore the request is not in conflict with the CTS zoning district or the Comprehensive Plan. The request would provide more parking in an area of the City that continually sees parking issues due to the many attractions and services afforded to residents and visitors in the Harbor District.

Mr. Stephen Tatum approached the dais and briefly explained to the members that his client is looking to utilize his property as an off-site boat storage and off-site parking.

Board member Piper asked if the parking spaces would be utilized by the public when not in use. According to Mr. Tatum the parking would be used by employees only and for possible valet services of the customers. But not for the public for liability purposes.

Chairman Weidenhamer opened the hearing to the public for comment.

Ms. Alice Dearmon of 523 Sea Hills Drive asked what exactly the request is for. Adding that she's not quite sure what the zone is or what the request is about.

Mr. Tatum explained that the boat storage would be in the off season and also, extra pontoon boats and jet ski/wave runners would be stored in the yard for exchange when there is a need for those to be maintained. Adding that the property will be fenced, as well as a 10-foot buffer is required around the property. He also informed the Board for clarification, that the entrance and exit will all be on Mountain Drive.

Mrs. Sandy Trammell, property owner of 505 Mountain Drive, expressed concern of the disposal of contaminated water after cleaning the vessels.

According to Mr. Tatum, because they are not finished with the development review process the only response he can provide at this time is there is a stormwater retention pond on

the site plans that is designed to clean the water before it percolates. Explaining further that they are only at this level to ask for the extra spaces, not development approval.

Mrs. Trammell stated that she is only asking that the containment of any chemicals and barnacles be addressed by staff, for pollution concerns.

Board member Piper asked staff if its reasonable for them to ask that a provision be included for stormwater runoff concerns.

Mr. O'Connor explained to the Board that the Variance Request is only for the additional parking and nothing more. Emphasizing, the Development Order Application is in the Completeness Phase of the review process and the stormwater, and their concerns will be addressed in that process.

The Land Use Attorney also explained this Board does not make recommendations. And since it the only Board besides City Council, that has final decision authority, they can grant or deny but only the issue described, which will be addressed during TRC and D.O. process. Adding that if the issue is truly a concern for them, she advised that they attend the City Council Meeting when the D.O. is being presented and speak to it, at that time.

Chairman Weidenhamer made the motion to recommend that the Board of Adjustments approve proposed Variance Request 21-32-VR with Vice Chairman Emerson providing the second. A roll call vote of 7-0 was taken and the motion passed unanimously.

5. ADJOURNMENT:

There being no further business the meeting was adjourned at 5:40 p.m.

Adopted and approved this 6th day of April 2022.

Tom Weidenhamer
Tom Weidenhamer, Chairman

Kim Montgomery
Kim Montgomery, Deputy City Clerk