

# BOARD OF ZONING APPEALS

## MINUTES

6:30 PM

February 19, 2014

City Council Chambers

**MEMBERS PRESENT:** Bernie Bossio, Leanne Cardoso, George Papandreas, and Jim Shaffer

**MEMBERS ABSENT:** Bill Burton

**STAFF:** Christopher Fletcher, AICP

I. **CALL TO ORDER AND ROLL CALL:** Bossio called the meeting to order at 6:30 PM and read the standard explanation of the how the Board conducts business and rules for public comments.

II. **MATTERS OF BUSINESS:**

A. **Minutes for the December 18, 2013 Hearing.** Papandreas moved to approve as presented; seconded by Shaffer. Motion carried 3-1 with Bossio abstaining due to absence.

B. **Minutes for the January 15, 2014 Hearing.** Papandreas moved to approve as revised; seconded by Cardoso. Motion carried unanimously.

III. **OLD BUSINESS:**

A. **V14-04 / Morgantown Dental Group / 142 High Street:** Request by Joshua Dolin, on behalf of Morgantown Dental Group, for variance relief from Article 1369 as it relates to signage at 142 High Street; Tax Map 28A, Parcel 47; B-4, General Business District. **TABLED**

Fletcher noted that Case No. V14-04 should remain on the table as additional information has been submitted by the petitioner.

IV. **NEW BUSINESS:**

A. **V14-05 / Suncrest United Methodist Church / 479 Van Voorhis Road:** Request by Jim Clevenger, on behalf of Suncrest United Methodist Church, for variance relief from Article 1369 as it relates to signage at 479 Van Voorhis Road; Tax Map 6, Parcel 66; PRO, Professional, Residential and Office District.

Fletcher read the Staff Report.

Bossio recognized the petitioner's representative Tim Halloran of 479 Van Voorhis Road who stated he concurred with the Staff Report.

Bossio asked if the banners would include changeable letters. Halloran stated the banner would not be changeable at this time but would like to work towards an electronic changeable message board in the future as the City allows.

Bossio asked if the steel columns would be wrapped. Halloran stated they have not decided on but the columns will be steel and painted to blend in with the color of the sign.

Bossio asked if the church would consider a stone, brick, or similar veneer cladding material encasing the steel posts. Halloran said they would be open to any suggestions.

There being no further comments or questions by the Board, Bossio asked if anyone was present to speak in favor of or in opposition to the request. There being no further public comments, Bossio declared the public hearing closed.

Fletcher read the Staff Recommendations.

Shaffer suggested the steel posts be wrapped in a brick, stone, or similar veneer material as a condition. Board members agreed.

Shaffer made a motion to find in the affirmative for all the Findings of Facts for V14-05 as revised by Staff; seconded by Papandreas. Motion carried unanimously.

*NOTE: The following Findings of Fact were included in the motion.*

Finding of Fact No. 1 – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

The subject property is located along one of the most heavily traveled arterial routes in the region. The proposed height increase of the sign will not obstruct sight distance on Van Voorhis Road. Increasing the sign size should assist in the church communicate seasonal events through temporary banner signs.

Finding of Fact No. 2 – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

There appears to be a number of businesses within the subject commercial corridor that exceed maximum ground sign height standards. The increase in height of the sign should help eliminate the need to use of temporary sign banners on the property closer to the sidewalk and roadway.

Finding of Fact No. 3 – The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

The proposed increase in height of the sign should not interfere with vehicular or pedestrian movement as the sign is located approximately 30 feet from the sidewalk and approximately 300 feet from adjacent properties.

Finding of Fact No. 4 – The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

The nature of the variance relief requested cannot contribute to nor mitigate existing traffic congestion; will not alter the existing land use characteristics of the existing building; and, will continue a signage messaging characteristic that appears to be prevalent within the subject commercial corridor.

Papandreas moved to approve V14-05 as requested with the condition that the vertical members of the post and panel sign must be wrapped in brick or stone or veneer brick or stone as agreed to by the petitioner; seconded by Cardoso. Motion carried unanimously.

Bossio reminded Mr. Halloran that the Board's decision can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board's decision during this period would be at the sole financial risk of the petitioner.

- B. V14-12 / Aerostar Apartments / 464 Inglewood Boulevard:** Request by Zip Shearer, on behalf of Aerostar Apartments, for variance relief from Article 1365.06 as it relates to accessible parking at 464 Inglewood Boulevard; Tax Map 11, Parcels 98 and 99; R-3, Multi-Family Residential District.

Fletcher read the Staff Report.

Bossio recognized Zip Shearer of 92 Chateau Royale Ct. who stated the structure of the building will not change. He referred to the Staff Report and stated they have enough parking including a handicapped accessible space, but they do not have a van accessible space. The landscaping is limited as it would cut into the parking. Shearer also noted there is not space to put a sidewalk because of the bank and the water meters.

Bossio asked if there was any other space that he could provide landscaping and referred to the Staff suggestions in the Staff Report. Shearer explained the parking takes up all the property but if any space exists after construction, then they would put landscaping where possible.

Fletcher referred to the Staff Report to explain the property and provide suggestions for landscaping areas. Fletcher also provided pictures to the Board to aid in explaining the location of other sidewalks along Inglewood Boulevard.

There being no further comments or questions by the Board, Bossio asked if anyone was present to speak in favor of or in opposition to variance petitions V14-12, V14-13, and V14-14.

Bossio recognized Parbiz Famouri of 460 Inglewood who distributed pictures of his property and areas surrounding the proposed project. Famouri explained the proposed project would lower his property value and that zoning exists for a reason.

Bossio noted that Famouri was aware of the surrounding structures when buying his house and some codes and regulations have changed from that time.

Papandreas asked Famouri to further explain the pictures that were distributed. Famouri explained that the pictures show how the drainage from the hillside affects his property.

Bossio asked if Famouri had ever contacted the City or MUB regarding the drainage issue and explained it is not the duty of the Board to act on those issues. Famouri said he had not previously contacted the City and noted the proposed project would lower his property value.

Bossio noted that the proposed project would enhance and improve the surrounding environment by adding landscaping and sidewalks if required.

Bossio invited Shearer to the podium for rebuttal. Shearer stated he would create a sidewalk and landscaping if necessary.

Shaffer asked if Shearer would be interested in screening in the dumpster area on the adjoining property. Shearer agreed to explore the option but explained the area surrounding the dumpster is very congested and noted that Republic Services may not be able to access it.

There being no further public comments, Bossio declared the public hearing closed.

Fletcher read the Staff Recommendations.

It was decided by the Board to review each of the Findings of Fact for V14-12 individually.

Cardoso made a motion to find in the affirmative for Finding of Fact No. 1; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

**Finding of Fact No. 1** – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

The width of the site appears to limit the development of parking that meets minimum parking requirements and parking design standards for a van accessible or universal accessible parking space. However, variance relief granted herein to allow the development of a standard accessible space furthers the intent of ensuring accessible parking is developed.

Papandreas made a motion to find in the affirmative for Findings of Fact 2; seconded by Cardoso. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

**Finding of Fact No. 2** – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

It appears that older multi-family developments within the immediate area do not include standard, van, or universal accessible parking spaces. Variance relief granted herein to require a standard accessible parking space furthers the spirit and intent of ensuring the development of accessible parking.

Papandreas made a motion to find in the affirmative for Findings of Fact 3; seconded by Cardoso. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

**Finding of Fact No. 3** – The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

The variance relief granted herein to allow the development of a standard accessible space reasonable furthers the spirit and intent of developing accessible parking and increasing the supply of accessible housing within the immediate area.

Papandreas made a motion to find in the affirmative for Findings of Fact 4; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

**Finding of Fact No. 4** – The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

The nature of the variance relief granted herein cannot contribute to or mitigate existing traffic congestion. “Multi-family dwelling” uses are permitted by-right in the R-3 District. It appears that the predominant landuse and development pattern within the immediate area is multi-family housing. The

proposed change in land use, regardless of the variance relief granted herein, should reduce trip generation to and from the petitioner's site during AM and PM peak periods from the previous day care use.

Shaffer moved to approve V14-12 so that a standard sized accessible space could be developed rather than a van or universal accessible space; seconded by Cardoso. Motion carried unanimously.

- C. **V14-13 / Aerostar Apartments / 464 Inglewood Boulevard:** Request by Zip Shearer, on behalf of Aerostar Apartments, for variance relief from Article 1367.08(C) as it relates to landscaping at 464 Inglewood Boulevard; Tax Map 11, Parcels 98 and 99; R-3, Multi-Family Residential District.

It was decided by the Board to review each of the Findings of Fact for V14-13 individually.

Papandreas made a motion to find in the affirmative for Finding of Fact No. 1; seconded by Cardoso. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

**Finding of Fact No. 1** – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

There appears to be limited space to provide requisite landscaping and meet minimum parking requirements and parking design standards. However, the variance relief granted herein will ensure that landscaping is provided across the site's Inglewood Boulevard frontage that does not currently exist and ensure a vertical landscape is developed to preserve the enjoyment and quality of life of the adjoining residential property.

Papandreas made a motion to find in the affirmative for Findings of Fact 2; seconded by Cardoso. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

**Finding of Fact No. 2** – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

There appears to be a number of older multi-family developments within the immediate area where landscape screening and buffer were not required prior to present related standards. However, variance relief granted herein and conditions improves the quality and care of development and furthers the spirit and intent of Article 1367.08.

Papandreas made a motion to find in the affirmative for Findings of Fact 3; seconded by Cardoso. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

**Finding of Fact No. 3** – The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

The conditions included in the variance relief granted herein advances the quality and care of development and furthers the spirit and intent of Article 1367.08

Papandreas made a motion to find in the affirmative for Findings of Fact 4; seconded by Cardoso. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

**Finding of Fact No. 4** – The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

The nature of the variance relief granted herein cannot mitigate or contribute to existing traffic congestions. Conditions included in the variance relief granted herein ensures the development of landscaping and hardscape fence, which should positively contribute to adjacent market values.

Shaffer moved to approve V14-13 with the following conditions:

1. That the area remaining between the petitioner's proposed parking lot and the Inglewood Boulevard right-of-way must be landscaped with trees and shrubs as required under Article 1367.08, to the greatest extent practicable given utility and/or utility meter pit constraints.
2. That an opaque privacy fence six (6) feet in height must be constructed along the length of the parking area that abuts Parcel 100 of Tax Map 11.

Motion seconded by Papandreas. Motion carried unanimously.

- D. V14-14 / Aerostar Apartments / 464 Inglewood Boulevard:** Request by Zip Shearer, on behalf of Aerostar Apartments, for variance relief from Article 1339.07(F) as it relates to sidewalks at 464 Inglewood Boulevard; Tax Map 11, Parcels 98 and 99; R-3, Multi-Family Residential District.

It was decided by the Board to review each of the Findings of Fact for V14-14 individually.

Papandreas made a motion to find in the affirmative for Finding of Fact No. 1; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

**Finding of Fact No. 1** – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

It appears that slope, utilities, and utility meters may obstruct the development of six foot sidewalks and requisite landscaping given minimum park space and design standards.

Papandreas made a motion to find in the affirmative for Findings of Fact 2; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

**Finding of Fact No. 2** – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

Since the enactment in 2006 of mandatory sidewalks under the Planning and Zoning Code, four (4) foot sidewalks were constructed as a part of two (2) separate multi-family developments located on the same side of Inglewood boulevard on the subject site. Said sites are at the corners of Inglewood Boulevard and St. Mary and at the corner of Inglewood Boulevard and East Coast Everly Street.

Papandreas made a motion to find in the affirmative for Findings of Fact 3; seconded by Cardoso. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

**Finding of Fact No. 3** – The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

The variance relief granted herein ensures sidewalk construction to further the development of pedestrian facilities as completed by other multi-family developments along Inglewood Boulevard. Thereby promoting public safety and welfare and public improvements.

Papandreas made a motion to find in the affirmative for Findings of Fact 4; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

**Finding of Fact No. 4** – The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

The nature of granting a two (2) foot sidewalk width variance cannot contribute to or mitigate existing traffic congestion. The construction of a four (4) foot sidewalk furthers pedestrian safety and preserves the value and enjoyment of neighboring properties.

Papandreas moved to approve V14-14 with the following conditions:

1. That a sidewalk, no less than four (4) feet in width, must be constructed along the length of the subject site's Inglewood Boulevard frontage.

Motion seconded by Shaffer. Motion carried unanimously.

Bossio reminded Mr. Shearer that the Board's decisions can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

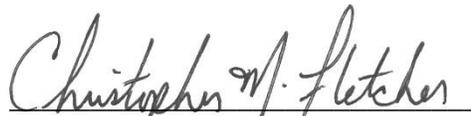
**V. ANNOUNCEMENTS:** Fletcher noted the Planning Commission's 2013 Annual Report that will be forwarded to City Council.

**VI. ADJOURNMENT:** 8:32 PM

MINUTES APPROVED:

April 30, 2014

BOARD SECRETARY:

  
Christopher M. Fletcher, AICP