



BOARD OF ADJUSTMENT
Regular Meeting

January 14, 2016
12:15 p.m.

City Annex Building, Council Chambers
680 Park Avenue

Members Present: Alex Creek; Steve Davies; Gene Hicks; Richard Lee; and James Wyatt.

Members Absent: Mark Scoville.

Staff Present: Brad Cramer, Community Development Services Director, Brent McLane, Current Planner, and Debra Petty, Recorder.

Also Present: Duane Nelson, applicant.

Changes to Agenda: None.

Call to Order: The meeting was called to order at 12:15 p.m. by Chair Lee.

Minutes: **August 13, 2015. Moved by Davies to approve the minutes of August 13, 2015, as presented. Seconded by Creek and passed.**

Aye: Alex Creek; Steve Davies; Gene Hicks; Richard Lee; and James Wyatt.

Nay:

Abstain:

Wyatt would like a draft copy of the meeting minutes within two weeks of the meeting because there is such a gap between meetings that it is hard to remember what took place.

Public Hearing(s): **Request for a variance to reduce the required number of parking stalls from 27 stalls to 21 stalls and reduce the dimensional requirements for the parking stalls. Lots 1-6, Block 10, Railroad Addition (Fire Station) 343 E Street**

McLane presented the staff report, a part of the record. McLane said the request comes from the City of Idaho Falls Fire Department for construction of the new fire station. He said it will be located on E Street between Shoup and Park Avenue and is zoned CC-1 (Central Commercial) and GC-1 (General Commercial). Current standards would require the parking lot to be 62.6' wide and is currently 58' wide. The major issues are the length of the stalls and the narrow drive aisle. They would like to retain the parking lot as it exists. McLane said the applicant has adequate parking, however, the Planning Division has requested a public open space be created in lieu of the parking at the corner of E Street and Park Avenue. Parking is adequate for the maximum number of employees' onsite any given day. McLane told Creek the lot will not be designated "Employee Only". Creek said there is a lack of ADA parking. McLane said it meets the ADA requirements but is something the Board can address.

McLane said the request is due to the hardship resulting from physical limitations on development due to the property upon which the variance is requested, and the hardship is not generally applicable to other properties in the same zone. Downtown is a unique situation, parking is a struggle. He said six variances have been approved in the downtown, none of which were for the City. McLane said the hardship is not economic in nature and not created by the property owner. He said the reduction in parking is a staff request in order to provide a

public open space rather than create additional surface parking that is not aesthetic to the downtown. The open space will be a plaza with benches and planters. It will be located in the north corner adjacent to E Street and Park Avenue. McLane said the request will not cause potential harm to the neighborhood, but rather a benefit.

Creek believes the plaza should be moved to allow more room for ADA parking at the front of the building. He suggested moving the building to the east side of the lot to create more parking at the front of the building. Wyatt's experience is he has never had the need to do business at a fire station and isn't as concerned about public access and having convenient parking in the front of the building. McLane said street parking is an option. Creek said some of the street parking should be designated ADA parking. McLane said there is potential to do that. McLane told Hicks the east parking lot is currently used by city employees. When the station is constructed the primary use will be parking for fire department staff. He confirmed for Davies the east lot is owned by the City. McLane said the issue is whether to allow the variance to maintain the existing parking standards and remove the parking on the corner to allow the public open space.

Davies understands they are not debating the site plan, however, there is a large setback between Shoup and the east parking lot. He asked if any consideration was given to moving the curb further east in order to make the stalls compliant. McLane said the consensus was to retain the greenspace space with the large mature pine trees. Davies asked if anyone considered whether or not the trees would be impacted by moving the parking curb 4-5 feet to the east. McLane said the trees would have to be removed. He said the parking lot already exists and is functioning. McLane told Creek the alleyway depicted on the site plan will remain and the buildings to the south are Nano Steel and the Police Department.

Wyatt said he believes the lot could comply if wanted. McLane said the lot could come into compliance if the trees were removed and the greenspace reduced. Chair Lee said not necessarily. Cramer said he believes the Board is moving into more deliberation than necessary for a public hearing. He said staff is willing to clarify or answer questions.

McLane confirmed for Chair Lee parking is based on the square footage of the building. The station requires 27 stalls. The requirement could be met if the original site plan were followed with the parking stalls adjacent to the public right-of-way. However, you lose the public open space. He told Lee one ADA stall is all that is required for compliance. Creek said the handicapped stalls could go where the proposed plaza is located. McLane said one benefit of the plaza is a reduction of access points on Park and E Street which in turn reduces potential for accidents. Lee said it is already established that as a Board their responsibility is to approve or disapprove the variance requests. Creek reiterated he wants to have handicapped parking stalls near the entrance of the building.

Chair Lee opened the hearing to public comment.

Fire Chief Dave Hanneman, 625 Shoup Avenue, Idaho Falls, ID. Chief Hanneman said there is little interaction with the public on a daily basis. Elimination of the front parking stalls and incorporating the public plaza is acceptable. He said they do not want to alter the east parking lot. In order to address necessary drainage for the site, some of the parking stalls need to be removed. Chief Hanneman said they are trying to utilize the lot to the best of their ability by minimizing any negative impact to the lot.

Creek asked where the current fire inspection office is located. Chief Hanneman said their office is located in the quarters above the fire station. When the station is complete the office will relocate to the new administration offices. Creek reiterated the need for public access and handicapped parking in front of the new station. Chief Hanneman told Creek the small area on E Street between the parking lot and concrete pad is for landscaping and onsite water retention.

Creek stated the site could be modified so no variances are needed and he wants additional handicapped parking.

Davies requested the Chair restrict the discussion to the issue at hand. The request is for a variance and the Board does not have the ability to modify the plan. Creek said there must be a reason for their decision. Chair Lee said the reasons are based on the three criteria they are given as a Board and not on personal preferences. Chair Lee asked if during preparation for the project whether public meetings were held, a time to address issues such as ADA parking. He said the request is for a variance to reduce the parking and is independent of the location of ADA parking. Comments should be restricted to the dimension and number of required stalls. Davies asked the Chief if he worked with the design team on the project. Chief Hanneman said he and Duane Nelson, Project Manager, worked with civil engineering, an architect and contractor, and the City of Idaho Falls Public Works Department. Davies asked if, although costly, consideration was given to storage of onsite water under the Plaza. He wanted to know if it wasn't selected for financial reasons.

Duane Nelson, Project Manager, 625 Shoup Avenue, Idaho Falls, ID. Mr. Nelson told Davies there are two water retention vaults, one under the parking lot and one under the proposed Plaza. He said while doing the civil engineering Cramer approached him about the need for streetscape in the downtown. The Plaza wasn't a need they had but is a request of the City to enhance the area.

Brad Cramer, Community Development Services Director, 680 Park Avenue, Idaho Falls, ID. Cramer said the site could be built without the need for a variance. A modification to the east parking lot by removing 5 feet of landscaping can be done to comply, however, citizens have expressed the importance of landscaping over asphalt. The variance was precipitated in an effort to preserve the existing landscaping. The parking lot has functioned well since it was constructed. In his opinion, ordinances discourage redevelopment of old sites rather than encourage and promote it. The current site is an example. He said a functional parking lot should be able to remain in lieu of ripping out additional infrastructure and landscaping. It is an effort to protect what the Comprehensive Plan promotes. Cramer said the downtown has a set of guidelines that encourage preservation of the unique development character, historic buildings, and a pedestrian oriented part of downtown. One of the characteristics of the downtown is buildings have a zero setback. Cramer discussed this concept several times with the Fire Department because the station is not sited adjacent to the street. He learned that it was necessary to locate the building to accommodate turning radiuses and the ability to get fire trucks in and out of the bays. He said the best alternative for disruption to the zero setback was to remove the parking from the northwest corner and create an inviting public space which gives the illusion of a "wall". Cramer said recently two studies were done in the downtown, a housing study and a downtown study. Both consultant groups said the City has too much surface parking for a downtown. He is speaking in favor of the variance based on discussions with the Fire Department. He suggested a condition of approval be the designation of one ADA parking stall on the street. Cramer confirmed for Creek there will be some infrastructure work done in the parking lot. According to code, once the asphalt is disturbed it must be brought up to current standards. The applicant favors using the lot as it currently exists because it has worked well for a long time. Wyatt said when you alter something you are required to bring it up to current code. Just because it has worked well in the past, as many things have, it still doesn't meet current code. Wyatt appreciates the Plaza rather than the parking lot on the corner.

Chair Lee closed the meeting to public comment.

Creek stated he still wants parking in front of the entrance. If not, a couple of designated handicapped stalls on Park Avenue in close proximity to the entrance would be acceptable.

Davies said ADA parking requirements are met with only one parking stall on the site, however, if Creek wants a condition on the motion for additional ADA parking, it wouldn't deter him from approving the variance. He said he concurs with Wyatt in that it would be easier to approve the reduction in the number of parking stalls if the parking lot was brought up to code, but he was greatly persuaded by the testimony of Cramer. It is acceptable to him to approve the variance as presented. Hicks concurs with the exception a dedicated ADA parking stall on Park Avenue be limited to one. He can accept the parking lot in its current state as it has functioned well without problems for a long time. McLane confirmed for Davies the use of the parking lot will not change. He said enough asphalt will be removed to provide adequate storm water retention then the asphalt will be replaced. Wyatt said he is concerned approval would set a precedence that the City doesn't have to comply. Davies said the goal is to further the Comprehensive Plan. Wyatt appreciates what is taking place but feels strongly the next person will come in with the argument the City didn't have to abide by the ordinance. Lee said the things that draw people to the downtown are parks, things to do, and the way that it looks. He said the fire department sponsors open houses a couple times a year and will look more inviting with the existing and proposed landscaping. From his perspective he views it as an effort by the City to establish the facility in an attractive way. Creek said the downtown is treated as a sacred cow. He understands efforts are being made to change the structure of the downtown, but the types of services offered are not ones that bring him into downtown. He concurs with Wyatt about the City setting a precedence.

Davies read into the record Article 21, Title 10, Chapter 3, under comprehensive zoning. Basically it states if you take away spaces from the lot you are obligated to provide new ones. He didn't understand if you eliminate 5 spaces you are required to bring the whole lot up to code. Wyatt said if it isn't a requirement, then why is a variance necessary? Cramer said his staff was in disagreement with him concerning the need for a variance, as it isn't a requirement to reduce the size of the stalls. His reasoning was to be on the safe side. To demonstrate the City should not be held to a lesser standard. He believes the City should go through the same public hearing process as the general public. A number of things are happening. Ripping up a portion of the parking lot, demolishing a building, and new construction. He said the use has changed and should meet the standard requirements. He said in response to setting a precedence, six other variances for parking have been approved in the downtown. None of which were for City projects. The difference is the 6 variances did not have land which this project does. Cramer said it should not be approved because it is the City rather because it meets the 3 criteria. Wyatt said there is some grey area as to whether it is the criteria or not that needs a variance for the parking stall size. He accepts the reduction in parking. He just doesn't want to undertake a variance that isn't required.

Davies believes the site functions as two separate sites. One for a fire station that needs parking and the second a parking lot which is owned by the City. He said Cramer must be looking at it as one big project and one big site so all of the parking should be brought up to code. Chair Lee said the part tying it together is the need to install the additional stormwater capabilities under the parking lot. He said if it was a regular retail building they wouldn't have the need for additional stormwater retention due to the amount of water the use will be dumping down the drain. Creek said it is for stormwater only. Wyatt said it is discouraging when you have only 5 members and 5 concurring votes are required. It puts the Board in a position where all have to go in or go out in order to have a binding motion. It does not give anyone the opportunity to vote their conscience. Chair Lee said the thing that tempers voting ones conscience is the 3 criteria they must consider. If there isn't a viable argument to say you don't meet a condition then your conscience should not play into the vote. Chair Lee asked Wyatt if he was ready to entertain a motion. Wyatt said someone else can make a motion. McLane told Wyatt the cost of the new fire station is 4.3 million. Wyatt questioned why the City is willing to spend 4.3 million and not willing to spend any additional money to make the site compliant. McLane said the 4.3 million doesn't include the street scaping. Chair Lee said there has been a great deal of

press about the project being constructed without additional costs. Wyatt said that makes the request sound like a financial hardship which doesn't meet approval of the criteria.

Creek moved that a variance be granted to reduce the required number of parking stalls from 27 stalls to 21 stalls and reduce the dimensional requirements for the parking stalls to what already exists because there is an undue hardship resulting from the physical limitations on development unique to the property upon which the variance is requested and such hardship is not generally applicable to other properties in the same zone, such hardship is not economic in nature and has not been created by the owner of the property or occupant, and granting the variance will not be in conflict with the public interest or create a nuisance or potential harm to the neighborhood in which the lot is located, conditioned upon one two handicapped parking stalls will be located near the entrance on Park Avenue and one on E Street. Chair Lee said the motion before the Board is to approve the variance as made with the condition two handicapped stalls be provided. He said there has already been discussion that one ADA stall is all that is required for the site. Creek said in his opinion they are needed. Wyatt believes they should default to the ADA requirements for handicapped parking stalls, instead of inventing their own standards. Davies concurs. Chair Lee said there is the possibility of making a citizen request before the Planning Department as a representative of others in the community with the same needs. **Creek rephrased his motion to condition approval upon one handicapped parking stall on Park Avenue.** Chair Lee said there is a motion before the Board as modified. Hicks believed that the condition couldn't be mandatory but rather a recommendation for approval. Creek said it can be a condition for approval. Davies said if the applicant doesn't agree to the condition they will not receive approval of the variance request. **Hick seconded the motion.** Chair Lee restated the motion is approval of the variance because it meets the variance criteria with the condition the City provides one handicapped parking stall on Park Avenue. **The motion passed.**

Aye: Alex Creek; Steve Davies; Gene Hicks; Richard Lee; and James Wyatt.

Nay:

Abstain:

Business:

Chair Lee recommended deferring the election of officers to the next Board meeting.

**Reasoned Statement of Relevant Criteria and Standards
Lots 1-6, Block 10, Railroad Addition**

Chair Lee said Item 4 says 22 parking stalls are provided. It should be corrected to 21 parking stalls. Davies asked if the conflict in the statement was advertised incorrectly. McLane said it was not. McLane said there are 22 spaces provided. He said 21 stalls was requested in case during the construction process it had to be altered. Wyatt said the variance is for 21, but staff is aiming for 22. McLane said it was a safety net. Chair Lee said he counted only 21 spaces. McLane said he was incorrect. There are only 21 stalls. Wyatt asked if another stall could be gained by removing the handicapped stall since there is one on the street. McLane said staff will address that during the review.

Wyatt said Item 5 is confusing. It states the 5 stalls to be removed would be located on the corner of E Street and Park Avenue and replaced with a public plaza. McLane said it is specifying where the 5 stalls were located. Wyatt would like it reworded to reflect there was a tradeoff for the removal of 5 parking stalls in lieu of a public plaza. McLane said he would modify Item 5 to include 5 stalls could have been provided in lieu of a public plaza...a plaza is more consistent with the City's Comprehensive Plan. Davies asked if all understood that when the asphalt is removed to install the stormwater vault it will be repaved. He said nothing is being changed. Wyatt said the question is whether or not it is a use change driving the variance.

McLane said Cramer stated because the building is being demolished staff is looking at the site as an entire single lot. The use is changing from an office building to a fire station.

Wyatt said Item 9 is a grey area. It states a portion of the lot will be torn up and current requirements would necessitate the lot to be brought to current standards. McLane said it should incorporate the verbiage "change of use". Wyatt clarified for Davies that tearing up the lot doesn't trigger the upgrade to the parking lot, it is the change of use. Davies asked if stalls are being lost because of the location of the transformer. McLane said a couple of stalls are being lost. Davies confirmed the loss of the two stalls is covered under the variance. He said it gets back whether consideration is only given to the parking lot because the use is not changed, but if you look at the whole lot the use is changing from commercial and residential property. McLane confirmed the parking lot was not originally part of the lot for the fire station. Chair Lee suggested changing Item 9 to say "change of use to Lots 1-6, Block 10, Railroad Addition". Wyatt said it is a change of use that requires bringing it up to standards, not just fixing it. Davies said he has a problem with that. He said the parking lot as it currently exists is not part of the fire station. It is a separate City owned lot. Just because the City purchased the adjacent lot for a fire station should not make it necessary to consider the parking lot a change of use. Creek said in the ordinance it says if you own a piece of property and you acquire another piece of property they are treated as one property. If you change the use of one you have to consider the use and bring the other up to standard. McLane said a full site plan is being created which includes the parking lot. They are no longer separate. McLane confirmed for Wyatt that if the parking lot was not associated with the fire station the variance request would be for a 100% reduction in parking. Davies said Item 9 should say it is necessary because of the change in use.

Moved by Creek to approve the Reasoned Statement of Relevant Criteria and Standards for Lots 1-6, Block 10, Railroad Addition, with corrections to Items 4, 5, and 9 as noted. Seconded by Davies and passed.

Aye: Alex Creek; Steve Davies; Gene Hicks; Richard Lee; and James Wyatt.

Nay:

Abstain:

Adjourn: Meeting adjourned at 1:25 p.m.

Respectfully Submitted,

Debra A. Petty, Recording Secretary