

GRAND JUNCTION BOARD OF APPEALS

October 10, 1990

8:00 a.m. - 10:45 a.m.

The Grand Junction Board of Appeals public hearing was called to order by Chairperson Jan Pomrenke at 8:00 a.m. in the City/County Auditorium.

In attendance, representing the Board of Appeals, were: Jan Pomrenke, John Elmer, and Sheilah Renberger. Katie Worrall and Aden Hogan were absent.

Also present were John Shaver, Assistant City Attorney and Mark Gamble, who is the non-voting board advisory member concerning signs.

In attendance, representing the Community Development Department, was Linda Weitzel.

Bobbie Paulson was present to record the minutes.

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I. APPROVAL OF MINUTES

MOTION: (JOHN ELMER) "MADAM CHAIRPERSON, I MOVE TO APPROVE THE AUGUST 8, 1990 MINUTES AS SUBMITTED."

Sheilah Renberger seconded the motion.

A vote was called, and the motion passed unanimously by a vote of 3-0.

MOTION: (JOHN ELMER) "MADAM CHAIRPERSON, I MOVE TO APPROVE THE SEPTEMBER 12, 1990 MINUTES AS SUBMITTED."

Sheilah Renberger seconded the motion.

A vote was called, and the motion passed unanimously by a vote of 3-0.

II. FULL HEARING

- 1. #90-9 Consideration of a request to vary the front yard setback requirement from 20 feet to zero feet to allow construction of a six foot privacy fence in a Residential Single Family Zone (RSF-8).  
Petitioner: Robert J. & Karen L. Miller  
Location: 1559 Chipeta Avenue

**PETITIONER'S PRESENTATION**

Robert Miller stated that his back yard is only 16 feet wide. Mr. Miller requested that he be allowed to also utilize his side yard to increase the fenced-in privacy area. The property line on the east side of the house is approximately 13 feet from his house. The distance from the house to the sidewalk is 27 feet. The request is for a variance to build a six-foot high privacy fence to the sidewalk which would allow him to utilize a larger lawn area. If this request was not approved, he would have to build the fence on his property line. The portion of lawn in the right-of-way on the outside of the fence would be difficult to maintain. The front corner of the fence will be approximately 42 feet 7 inches from the inner portion of the northerly sidewalk along Chipeta Avenue which would leave adequate sight distance for traffic heading north on 16th Street.

**QUESTIONS**

John Elmer asked Mr. Miller if he considered putting in a chain link rather than a privacy fence to allow more visibility?

Mr. Miller explained that his house is on a corner lot, and the yard is exposed all the way around. A six-foot high wood fence would give the Millers more privacy and provide a safe environment for his children to play. Mr. Miller pointed out that another house on the same street has a six foot high chain link fence that cuts across the front corner of the lot similar to his request.

**STAFF PRESENTATION**

Linda Weitzel, Planning Technician, stated that this request is twofold. The Board of Appeals is considering a request by the Millers to build a six-foot high privacy fence at zero lot line in the front yard setback area. Mr. Miller will be requesting a revocable permit from the City Council to allow him to extend this fence onto the public right-of-way. The Code requires that nothing over 30 inches be allowed in public right-of-way. The Board is requested to consider this variance contingent on the Council's approval of the revocable permit. The City Engineer requested that the fence be built at least five feet back from the sidewalk to allow for adequate sight distance.

Ms. Weitzel recommended that this request be granted to allow a six-foot high fence to be constructed along the sidewalk in the public right-of-way. Ms. Weitzel felt that the lawn would be easier to maintain if the whole area was fenced in. There are several properties between Gunnison Avenue and Grand Avenue that have chain link fences which extend to the sidewalk.

QUESTIONS

Sheilah Renberger asked if there are any utilities located in this right-of-way?

Ms. Weitzel responded that she was not aware of any utilities. She explained that there is a hold harmless agreement that is part of the revocable permit. This agreement would provide for an understanding with the Millers that would allow the City to use the right-of-way if necessary.

Sheilah Renberger was concerned that if this variance was approved to construct a fence in the right-of-way, that given a passage of time the Millers could claim the property as theirs.

John Shaver answered that they would have not rights by adverse possession.

John Elmer asked if there was sufficient off-street parking? He added that if there were cars parked along 16th Street, it may add to the sight distance problem.

Mr. Miller replied that they have a one-car garage on the west side of the house. The driveway is long; therefore, they can fit approximately three cars in the driveway.

PUBLIC COMMENTS

There were no public comments.

**MOTION:** (JOHN ELMER) "MADAM CHAIRPERSON, ON ITEM #90-9 A REQUEST TO VARY THE FRONT YARD SETBACK REQUIREMENT FROM 20 FEET TO ZERO FEET TO ALLOW CONSTRUCTION OF A SIX FOOT PRIVACY FENCE IN A RESIDENTIAL SINGLE FAMILY (RSF-8) ZONE, I MOVE THAT WE APPROVE THIS PROPOSAL BASED ON HARDSHIP OF THE LOT CONFIGURATION IN ALLOWING THE PETITIONER TO HAVE A BACK YARD AND TO ALLOW THE FENCE SIX INCHES BEHIND THE SIDEWALK IN THE RIGHT-OF-WAY BASED ON THE GRANTING OF A REVOCABLE PERMIT."

Sheilah Renberger seconded the motion.

A vote was called, and the motion passed by a vote of 2-0 with Jan Pomrenke abstaining.

2. #90-10 Consideration of a request to vary the sign code Section 5-7-7B.6.a. to allow a maximum of two square feet per linear foot for a projecting sign.  
 Petitioner: The Cycle Center, Steve & Deanna Inglis  
 Location: 141 North 7th Street

**PETITIONER'S PRESENTATION**

Deanna Inglis submitted photographs of the old *State Liquor* sign and the new *Cycle Center* sign for the Board to review.

Arlo Kirk, a sign contractor with Sign Designs, was present on behalf of the petitioners.

Mr. Kirk explained that he planned to get the sign permit on Monday, September 3, 1990; so he lined up a boom truck to install the sign on the following Tuesday. Monday was Labor Day and City Hall was closed; consequently, he could not obtain a permit. Because the boom truck was already scheduled on Tuesday, he proceeded with the installation of the sign. After the sign was erected, he applied for the permit. That is when he discovered the sign was nonconforming. He thought he had a verbal okay from the Community Development Department but there was a misunderstanding that the new sign was a flush wall sign instead of a projecting sign. The *Cycle Center* building is located on the corner of Rood Avenue and 7th Street so the projecting sign looks better and is much more visible than a flush wall sign would be. When the sign is completed, it will have a neon light on the side. The *Cycle Center* sign is 96 square feet. Mr. Kirk asked if it was the square footage that was in question or the projection from the building?

Ms. Weitzel replied that the square footage exceeds the allowable amount in the Code for a projecting sign.

**QUESTIONS**

Jan Pomrenke asked Mr. Kirk if it was standard procedure to proceed with the installation of a sign without a permit?

Mr. Kirk replied no; he added that he was not real familiar with the sign code. Most of his sign business is interior signage.

Jan Pomrenke asked Mr. Kirk if he was aware that the *State Liquor* sign was nonconforming?

Mr. Kirk replied affirmatively. He measured the new *Cycle Center* sign and thought that it met the Code requirements, but because of the misunderstanding, he was using the square footage allowance for flush-wall signage.

Sheilah Renberger reiterated the importance of obtaining a permit before erecting a sign.

Mr. Kirk stated that he did not understand the process. It would be impossible to buy a permit every time a bid was made. Outside of a verbal okay the only other alternative is to buy a permit. If there is a misunderstanding with the verbal okay, how can it be resolved?

Jan Pomrenke suggested meeting with Mark Gamble, who is the nonvoting board advisory member concerning signs, to discuss the process.

#### STAFF PRESENTATION

Ms. Weitzel stated that she had spoken with Mr. Kirk prior to him installing the sign. She said the figures she had given him were measurements for a flush wall sign not a projecting sign, and added that she also misunderstood what he was asking.

Ms. Weitzel continued; the building is unique because the front is cut diagonally leaving no room for a free-standing sign. If there was room for a free-standing sign along 7th Street and Rood Avenue, the 7th Street side would allow a 75 square foot sign and the Rood Avenue side would allow 100.25 square foot signage. The building facade along 7th Street where this projecting sign is would allow a 123.8 square foot flush-wall sign.

The design of the building and having a sign that is visible to passing motorists is a hardship. Even though there is an amortization policy in the Code, there are still some outstanding nonconforming signs. She felt that the petitioners operated in good faith. It is not uncommon for sign contractors to put a sign up before obtaining a permit; every sign contractor in the City has done it at least once.

#### QUESTIONS

Mark Gamble asked Ms. Weitzel how many square feet the sign is over the allowed amount?

Ms. Weitzel replied that the *Cycle Center* sign is 96 square feet according to Mr. Kirk's measurements, and the Code allows 30.95 square feet.

When asked if the existing sign face was just overlaid, Mr. Kirk replied affirmatively.

Mr. Shaver pointed out that the petitioner's written representation states that the new sign is smaller than the previous sign. If this is just an overlay, how can this be?

Mr. Kirk replied that the *State Liquor* sign had two arms protruding from the top, those have been cut off so the new sign is not as tall as the old sign was.

John Elmer asked if the bottom part of the sign that allows the owner to change messages was necessary for this business?

Ms. Inglis replied affirmatively; it was done at the other *Cycle Center* store on North Avenue.

John Elmer asked if it would be appropriate to request that when this business left this location that they take the sign with them so as to not perpetuate the problem?

Mr. Shaver stated generally signs of this nature are deemed to be fixtures. When the property sells, the sign is an attachment to the building and deemed to be a fixture. It probably is not appropriate to ask that they remove their signage when they leave. Because of the amortization policy of any nonconforming use, this sign can be corrected with any subsequent use of the building.

Ms. Weitzel explained that the Code states: when considering a sign variance, the clutter of signage should not be perpetuated. She felt that even though this sign was oversized, it did not perpetuate more clutter or have any negative impact.

Jan Pomrenke added that since the projecting sign is at a very busy intersection and is more visible, it would deter possible traffic hazards when customers are driving around looking for this business.

John Elmer requested that if another sign was added to the building that the total square footage of both signs not exceed the total allowable amount for the building.

Ms. Weitzel agreed; that will happen just as a course of events because of Code requirements.

John Elmer felt that the hardship was that there was no place to put a free-standing sign on this property.

**PUBLIC COMMENTS**

There were no public comments for or against this proposal.

**MOTION: (JOHN ELMER) "MADAM CHAIRPERSON, ON ITEM #90-10 A REQUEST TO VARY THE SIGN CODE SECTION 5-7-7B.6.a. TO ALLOW A MAXIMUM OF TWO SQUARE FEET PER LINEAR FOOT FOR A PROJECTING SIGN, I MOVE TO APPROVE THIS PROPOSAL BASED ON HARDSHIP OF THE CONFIGURATION OF THE LOT AND THE BUILDING."**

Sheilah Renberger seconded the motion.

A vote was called, and the motion passed by a vote of 2-0 with Jan Pomrenke abstaining.

- 3. #90-11 Consideration of a request to vary the sign code Section 5-7-7.B.7.a. to allow two free standing signs on the same parcel with the same street frontage.  
 Petitioner: 7th and Bookcliff Corp, Art Moss  
 Location: 2232 North 7th Street

PETITIONER'S REPRESENTATION

Art Moss complimented the staff on their patience and willingness to assist him through the procedures of the sign code.

Mr. Moss stated that the property at 2232 North 7th Street is known as the *Medical Arts Center*. Mr. Moss purchased this property last spring. Some very substantial changes have been made to enhance the appearance of the building; it used to look like a 1950's hotel, but because of the remodeling that was done, it looks more like a 1990's office building.

This request is for a variance to allow replacement of the existing free-standing sign with another free-standing sign. The existing sign identifies the building. The new sign would identify the building and the tenants. The sign code allows one free-standing sign for each parcel on the street it is located. This parcel is located on two streets: Bookcliff Avenue and North 7th Street. There is one existing free-standing sign that is being used by *Mesa Drug* which is located on North 7th Street. If this sign was located another 30 feet to the north along Bookcliff Avenue, there would be no need for this variance request.

Mr. Moss continued; the proposed sign would be very tastefully done like the rest of the renovation of the building. The new sign would be larger than the existing sign so that the tenants will be able to identify themselves to the passing traffic. Mr. Moss submitted a rough sketch of the proposed sign for the Board to review. The proposed sign will not be lighted. If the sign was ever lighted in the future, it would be from ground level with a flood light. Literal interpretation of the sign code would make it impossible for the tenants to identify themselves; in fact, the existing sign that identifies the building would have to be removed. This would create a considerable hardship to the owner and the tenants.

Jan Pomrenke asked if the directory signage would be portable, so that when tenants come and go it can easily be replaced to identify the new tenants.

Mr. Moss replied affirmatively. The sign will have the name of the doctor and their title or the name of the business. It will not have slogans, etc. There will also be signs on the building identifying the individual occupants. The proposed sign design and color will tie directly with those signs on the building. Mr. Moss explained that the sign was a two sided sign so that it could be seen by traffic going both north and south along 7th Street.

John Elmer asked if the sign would be made of redwood?

Mr. Moss said that it would be made out of wood; he was not certain it would be redwood.

**STAFF PRESENTATION**

Ms. Weitzel gave a brief summary of the request. Even though *Mesa Drug* appears to be separate, the *Medical Arts* building and *Mesa Drug* are located on the same parcel. As Mr. Moss mentioned, the sign for *Mesa Drug* is on the south side of the parcel which disallows any other free-standing signage along North 7th Street. The *Medical Arts* building is shaped so that it is difficult to see any names or signage on the building itself. The free-standing sign will be utilized as a building and a tenant identifier. Because the 7th Street corridor is very wide, Mr. Moss must make sure he is on private property and not in the public right-of-way.

Ms. Weitzel continued; the existing *Medical Arts* sign is nonconforming. There have been no complaints regarding the sign; therefore, no enforcement action was taken. This request does not violate the intent of the Code. There are other cases such as *Eastgate Shopping Center* and *Teller Arms* that have similar pieces of property with several tenants; however, the positioning of the stores, the signage, and the commercial nature of these stores is vastly different than the more professional office nature that is being proposed here.

**QUESTIONS**

Mark Gamble asked Mr. Moss how many tenants he anticipated at any one time on the property?

Mr. Moss replied that there would be a maximum of fifteen tenants. Currently, there are twelve spaces available to rent.

Mark Gamble stated that the sign code does not address the signage possibilities very well for multiple tenants on one parcel. Mr. Gamble felt allowances should be made for this type of business and that the Code should be updated to reflect and accommodate this type of business use.

John Elmer asked why the site drawing of the *Medical Arts* building showed 18 units?

Mr. Moss replied that originally there were 18 units, now there are twelve. It varies depending on the requirements of the tenant. The maximum will be fifteen, and we want the signage to be sufficient. If there are blank spaces on the sign they could be filled with "Have a Good Day" or something along that line.

Ms. Weitzel pointed out that it is important to look at the overall square footage of the sign. The sign will just have the name of the doctor or business with a short description rather than having any lengthy advertising.



John Elmer said he would like to add a restriction that if there is any lighting, it should stay on the ground.

Ms. Weitzel stated that the Code covers lighting pretty thoroughly.

**PUBLIC COMMENTS**

There were no public comments for or against this proposal.

**MOTION: (JOHN ELMER) "ON ITEM #90-11, A REQUEST TO VARY THE SIGN CODE SECTION 5-7-7.B.7.a. TO ALLOW TWO FREE STANDING SIGNS ON THE SAME PARCEL WITH THE SAME STREET FRONTAGE, I MOVE THAT WE APPROVE THIS PROPOSAL BASED ON THE NEED OF CONFIGURATION OF THE BUILDING."**

Sheilah Renberger seconded the motion.

A vote was called, and the motion passed unanimously by a vote of 3-0.

A brief recess was called 9:03 a.m. The meeting reconvened at 9:06 a.m.

4. **#90-12 Consideration of a request to vary the height restriction in the Site Distance Section 5-3-2 of the Grand Junction Zoning and Development Code to six feet from grade to allow placement of a sign in the public right-of-way.  
Petitioner: St. Mary's Hospital and Grand Junction Sign and Neon, Barbara Poltera  
Location: 2635 North 7th Street**

**PETITIONER'S PRESENTATION**

Barbara Poltera, of Grand Junction Sign and Neon and representative for St. Mary's Hospital, briefly summarized St. Mary's proposal for an emergency directional sign. The proposed sign will be on the southwest corner of 7th Street and Patterson Road to direct traffic going south on 7th Street and west on Patterson Road down 7th Street. Approximately 500 feet from this corner there is an additional existing directional sign that will direct them another 500 feet to the entrance of the emergency room. Because St Mary's lot is very large, it is extremely difficult to see either of the existing emergency signs.

The proposed sign will be six feet long and two feet high, with an ivory background entirely illuminated. It will be similar to the existing signs on the property.

Ms. Poltera continued; approximately 20 feet of the southwest corner of St. Mary's property is in public right-of-way. When this project was started, St. Mary's was unaware that the right-of-way came that far into their parking lot.

According to the City Code, no signage can be higher than 30 inches from grade in a public right-of-way. On private property, the Code would allow a single pole sign six feet from grade.

After living here two weeks, Ms. Poltera recalled her experience of the difficulty she had trying to locate the emergency room at St. Mary's.

#### **QUESTIONS**

John Elmer asked if it was in St. Mary's long-range plans to keep the emergency entrance on the south side of the building?

Ms. Poltera replied affirmatively.

John Elmer asked if the sign would take any parking spaces and if it would be located on the asphalt?

Ms. Poltera stated that if the sign was not located within the right-of-way, the sign would have to be moved 40 feet down either 7th Street or Patterson Road which almost eliminates a reason for having a directional sign on the corner. The sign will be located in the asphalt and inside the marked triangle where there are not any designated parking spaces.

Sheilah Renberger was concerned that since this intersection was so busy, the distance between the ground and the sign would not allow adequate sight distance for traffic.

#### **STAFF PRESENTATION**

Ms. Weitzel stated that the assessor's map shows where the public right-of-way actually is. The map doesn't show what is being used as parking, etc. The sign will be on a single pole and will be six feet high which should allow for adequate sight distance. There is a street light, an electrical box, and a power pole located in the southwest corner of 7th Street and Patterson Road. Ms. Weitzel stated there is a concern that if the sign is located in that same corner, that it may not be seen because of the stop sign, power pole, etc. City Council issued a revocable permit to St. Mary's. She added that people do park their cars in this triangle area.

#### **QUESTIONS**

Mark Gamble was concerned with allowing placement of this sign in the right-of-way, because other businesses may want to put signage in the right-of-way too.

Mr. Shaver stated that the City Council made a conscious policy choice pertaining to the health, safety and welfare of the public and the potential difficulties of finding the emergency room. These aspects of this particular situation were considered when they issued the revocable permit to St. Mary's Hospital. By requiring that the petitioner come to this board, they are making sure that the placement of the sign is appropriate. There is a very distinguishable difference between a commercial type sign and St. Mary's sign application.

John Elmer was still concerned with the clutter of the poles, cars, and signage -- particularly the cars.

Jan Pomrenke asked if an alternative needed to be made, where would St. Mary's place the sign?

Ms. Poltera replied that there is not an alternative. The southwest corner is the only place that will facilitate the needed directional sign.

Jan Pomrenke suggested some type of barrier to keep cars from parking in the corner.

Ms. Weitzel suggested that this may be recommended, but not required because it is still in the public right-of-way.

Mr. Shaver suggested to the Board that they make a condition that St. Mary's Hospital either paint stripe a line on the asphalt or something similar to this to demarcate the area as "NO PARKING" if the Board is concerned about St. Mary's employees parking in the immediate vicinity of the sign.

#### PUBLIC COMMENTS

There were no comments for or against this proposal.

**MOTION: (JOHN ELMER) "MADAM CHAIRPERSON, ON ITEM #90-12 A REQUEST TO VARY THE HEIGHT RESTRICTION IN THE SITE DISTANCE SECTION 5-3-2 OF THE GRAND JUNCTION ZONING AND DEVELOPMENT CODE TO SIX FEET FROM GRADE TO ALLOW PLACEMENT OF A SIGN IN THE PUBLIC RIGHT-OF-WAY, I MOVE THAT WE APPROVE THIS BASED ON BENEFIT TO PUBLIC FOR HEALTH, SAFETY, AND WELFARE OF HAVING THE SIGN IN PLACE, AND THAT WE REQUEST ST. MARY'S TO DELINEATE THAT AREA BY STRIPING OR SOME OTHER MEASURE TO PREVENT PARKING AWAY FROM SIGN."**

Sheilah Renberger seconded the motion.

A vote was called, and the motion passed by a vote of 2-0, with Jan Pomrenke abstaining.

5. #90-13 Consideration of an appeal of an administrative decision regarding the Parking Regulations Section 5-5-1.I.17.

Petitioner: Charles R. Couch & Douglas A. Cluff

#### PETITIONER'S PRESENTATION

Charles Crouch, the petitioner, and Gary Dodson, the landlord's representative, were present for the appeal. Gary Dodson is a local realtor and lives at 416 Ridgeway Drive. The owner of the building located at 1059 North Avenue, Paul Naftel, lives in Castle Rock.

Mr. Crouch explained that this is an appeal of the administrative decision regarding the parking at 1059 North Avenue. He thought that there was sufficient parking for his business until he was well into the project. He felt that the business should not be equated the same as a restaurant for parking needs. The proposed business, a coffee shop, would generate a lot of walk-in traffic from the college. That is why this location was selected. He stated that he understood that there has been a history of problems with insufficient parking from other restaurants that located there.

Mr. Crouch continued; because two of the existing businesses do not open until 10 a.m. and the coffee shop's busiest hours would be between 6 a.m. and 10 a.m., there would not be a conflict. The proposed coffee shop would not attract a lunch crowd; the amount of food and beverages would be limited. The City is basing the parking requirements on 49 seats. Mr. Crouch added that he would be willing to open with a lot less seating to establish the fact that there would be a lot of walk-in cliental. The additional ten parking spaces that were acquired across 11th Street, behind *Kentucky Fried Chicken* is only a temporary arrangement because the property is for sale. If the property is sold, he would have a six month notice where he would loose those ten parking spots.

#### QUESTIONS

Jan Pomrenke asked Mr. Crouch how long he has observed the parking problems with the college students?

Mr. Crouch replied that he first looked at this property in April, 1990; and, it looked like it would be a good spot for a coffee shop. When he talked to the other tenants, *Pro-Look* and *Airtime Video*, they informed him of the parking problems in the past because of the *Touch of Greece* restaurant. *Airtime* had to hire security to control the parking spaces at different times.

Mr. Crouch said that he has observed parking in the lot behind the building on a daily basis since late July and found that there was never a tremendous amount of usage; parking is pretty sporadic and brief. From approximately noon to dinner time *Airtime* generates quite a bit of business. Mr. Crouch agreed that the college students use most of the on-street parking areas.

#### STAFF PRESENTATION

Ms. Weitzel gave a brief summary of the appeal of the administrative decision. The property is located on the corner of 11th Street and North Avenue. There are ten parking spaces available along the alley behind *Kentucky Fried Chicken*. The City Engineer tentatively approved these additional parking spots, but now he feels that it is not safe because these cars back into the alley and also because the ingress/egress for *Kentucky Fried Chicken* parallels the alley. There are also a total of 19 parking spaces directly behind the building.

Ms. Weitzel stated that because of the problems with the *Touch of Greece* restaurant, staff is skeptical about allowing any type of restaurant use in this building.

Ms. Weitzel spoke with the owner, Mr. Paul Naftel, yesterday. Mr. Naftel stated that there is approximately 6,600 square feet in the entire complex. If the building were entirely retail use, approximately 23 parking spaces would be required.

The Code does not distinguish between a restaurant and a coffee shop. A restaurant requires one parking space for every three seats of designed seating capacity. Based on the 49 seats the fire marshall recommended, 17 parking spaces are required for the restaurant. In addition to Mr. Crouch's proposal for the coffee shop, he will also sell books which would require one parking space. A total of 18 spaces are required for this proposal. *Airtime*, based on square footage, requires 11 parking spaces, *Pro-Look* requires five. The total number required is 34 parking spaces.

Ms. Weitzel continued; the coffee shop may generate more foot traffic; however, the Code requires one parking space for every three seats in the restaurant. The Code also has a provision to allow a reasonable reduction. Staff did not feel comfortable with reducing the required parking this much. Because the *Touch of Greece* restaurant generated so much vehicle traffic, *Airtime* had to hire security guards to guard their parking spaces. The Community Development Department received complaints every single day.

Ms. Weitzel suggested that one alternative may be if Mr. Crouch would increase his retail book store space, it would decrease the number of required parking spaces. Currently, the plan has approximately 125 square feet used as the bookstore. The Code requires one space per 250 square feet.

Even though Mr. Crouch is proposing to open with only 15 seats, the required parking spaces is based on the designed seating capacity. If his coffee shop has good coffee and good pastries, it may generate more business than is anticipated.

#### QUESTIONS

Jan Pomrenke asked Mr. Crouch if he would consider increasing the bookstore space?

Mr. Crouch explained that the books are a secondary business and a novelty that attracts the clientele. The main feature is the coffee. He reiterated that he did not want to open a book store.

Jan Pomrenke asked if he had searched for any other parking spaces in close proximity?

Mr. Dodson stated that before this building was leased to Mr. Crouch, the owner scrutinized the business and felt that there was adequate parking. Most of the traffic will be students from the college. In the past there were two restaurant type businesses located here: *Manhattan Deli* and *Domino's Pizza*. There wasn't a problem with parking until the *Touch of Greece* restaurant moved in. They put in more seats than what was agreed to, which was not part of the owner's desire.

When it was time to renew *Manhattan Deli's* lease the owner decided, because of the parking problem, he would eliminate a solid tenant who had been there for years. Since then the *Touch of Greece* has gone out of business.

Mr. Dodson stated that he has yet to see more than five spaces taken up at any time by the two existing businesses. He estimated that at least 14 spaces would be left for the coffee shop's customers.

Mr. Dodson requested that the Board give Mr. Crouch an opportunity to prove that the coffee shop would not cause a problem with the parking.

Mr. Crouch added that he would monitor the type of traffic that was being generated, ie: walk-in, drive-in, take-out or stay-in. The Coffee Shop would close at 2:00 p.m. when the other businesses would start generating traffic.

Sheilah Renberger asked what hours he expected to be open?

Mr. Crouch replied from 6:00 a.m. to 2:00 p.m Monday through Friday and from 6:00 a.m. until midnight on Friday and Saturday nights.

Jan Pomrenke pointed out that this type of business would attract football fans, Mesa State play attenders, etc.

Mr. Crouch stated that he was trying to evoke a bohemian atmosphere with the books; it would be a place for students to hang out and study.

Jan Pomrenke asked when the coffee shop would be opening for business?

Mr. Crouch said that he has approval from the Health Department. Now it was dependent on approval from the Board to open with 15 seats or more. If the coffee shop is approved with only 15 seats, it will probably be another month before he opens. If there were more than 15 seats some additional plumbing would have to be done, therefore, it would be longer.

Jan Pomrenke asked Mr. Crouch what is his potential to succeed with only with 15 seats?

Mr. Crouch felt that with the take-out business, there would be enough business to succeed. He added that he would like to increase the number of seats after the City was able to determine that the parking needs differed from that of a restaurant.

Mr. Shaver asked if there was any potential to secure off premise parking other than the ten spaces?

Mr. Crouch stated that he has looked but hasn't found anything. The area behind *Kentucky Fried Chicken* is an open field and more parking can be made available if needed. He added that this property is for sale.

Mr. Shaver asked if there are any current negotiations for the lot?

Mr. Crouch replied no; the property wasn't listed for sale until he had signed the lease.

Jan Pomrenke suggested that the owner purchase that lot so that he would have sufficient parking for his tenants.

Mr. Dodson agreed, and added that it was not economically feasible for the owner to purchase that lot.

Mr. Shaver asked if the spaces behind the building were allocated to the businesses or if all the spaces were available to any of the tenants?

Mr. Crouch replied that the owner represented to him that the coffee shop would have five allocated spots, *Pro-Look* has five, and *Airtime* has ten.

Mr. Shaver asked how the representation was made?

Mr. Crouch explained that it was by the square footage.

Ms. Weitzel explained that a business can designate a number of parking spaces to the tenants; however, it doesn't necessarily meet the requirements of the Code. The Code has specific requirements that sometimes are in conflict with the property owner.

Mr. Dodson felt that since there have been restaurants in this building in the past, the owner assumed they were allowed.

Ms. Weitzel pointed out the *Domino's Pizza* was primarily a take-out and deliver type business and *Manhattan Deli* had fairly limited seating. These business are much different than a coffee shop. She reiterated that the Code does not distinguish between a coffee shop and a restaurant for parking requirements. The Community Development Department is available to assist property owners with questions before a lease is signed or property is purchased.

Mr. Shaver asked Mr. Crouch if he has had previous experience in running this type of operation?

Mr. Crouch replied that he worked three and a half years in this type of business as a supervisor/manager in Portland, Oregon. The business was called "*American Espresso*" and was adjacent to a college.

**PUBLIC COMMENTS**

Ms. Weitzel replied that Mr. Paul Naftel faxed a letter late yesterday afternoon which she read aloud to the Board. The letter read as follows:

October 9, 1990

RE: Appeal - Charlie's Coffee House - 1059 North Avenue  
Unit 4 Appeal to be heard 8:00 a.m. October 10, 1990.

Pursuant to our telephone conversation today, I wanted to summarize the key reasons why we, as property owners, believe that above mentioned appeal should be granted.



1. Restaurant v. Coffee Shop - The code does not distinguish between the two. The reality is that this coffee shop will be serving coffee and pastries and not full restaurant meals. The parking needs of a coffee house, I believe, are dramatically less than for a full restaurant.

2. Timing of Parking Usage and Tenant Mix - The present tenants of the building (Airtime Video and Pro Look) are pretty much standard retail users. These shops require parking from time to time throughout the day, with Airtime having a heavier requirement around dinner time. I have personally inspected the parking lot at different daytime intervals, and found it generally had no more than 4-5 cars parked, indicating that from a market standpoint, there is more than adequate parking. The coffee house will require parking from time to time during the day, but my guess is that the heavier requirement will come in the evening hours. In other words, the coffee shop's heavy parking use will come when the other shops have very little, if any, need for parking. (Indeed, they may well be closed at that time.) It should be possible for this particular tenant mix to easily share the existing parking facilities.

3. Availability of Additional Parking across the Alley  
The applicants have a lease available to them on 10 parking spaces in Lots 31-34, Block 06 (according to Linda Weitzel, there are 8 with bumpers but 2 bumpers will be added, thereby giving 10 spaces). A copy of said lease attached hereto. According to the very strictest application of the code, Linda indicated to me that the building needs 34 spaces; with 10 across the alley, a total of 29 are provided, leaving a shortfall of only 5 spaces.

4. Code Seating Capacity - Linda indicated that the parking requirement for the coffee shop was based on an assumption of 49 seats at the Coffee House. The actual number of seats to be provided in the coffee house is indeed a good deal less than that.

For all these reasons, I am appealing to the Board to allow the coffee shop to be granted an occupancy permit.

Thanking you in advance,

Sincerely, Paul Naftel Property Owner

Ms. Weitzel stated that the Code has a provision that allows the administrator to reduce the number of required parking spaces. That is what was done with the *Touch of Greece* restaurant. She pointed out that Mr. Crouch's proposal is different, and that he should not be punished because of past events; however, staff was unwilling to reduce the number of required parking spaces based on the Code's requirements.

Jan Pomrenke asked what Mr. Crouch's alternative would be if this proposal were denied?

Mr. Crouch stated that he was not sure. He explained that he has invested a lot of money into this project before realizing that he may not be able to open. He relocated here from Oregon at quite an expense.

Jan Pomrenke asked what the landlord was willing to do?

Mr. Dodson replied, what can he do; this property was leased because it was felt that the parking problem was not this severe. There are four curb side parking spots, ten across the street, and 19 behind the building. He felt this was sufficient. Mr. Crouch is willing to reduce the number of seats in his coffee shop and let the City scrutinize the business to see how it is working. Other restaurant type businesses that have wanted to lease a spot in this building have been rejected because of the parking problem. The owner has leased the parking lot across the Street to help alleviate some of the problem.

Sheilah Renberger was concerned that if the coffee shop was approved to open with 15 seats, what would happen if the business grew and increased the number of seats to 49?

Ms. Weitzel explained that this is the problem. The *Touch of Greece* restaurant agreed to have a certain number of seats when they opened. Periodically staff would check their restaurant and there were always more chairs than were agreed upon. There may not be this problem with this proposal, but staff did not feel comfortable in making this decision. That is why it is before the Board of Appeals.

Sheilah Renberger asked Mr. Crouch if he would like to increase the seating to 49?

Mr. Crouch replied affirmatively, and if the Board does not approve this then he would be hesitant to continue with the project.

John Shaver recommended that the Board consider this request for parking for a restaurant with 49 seats. Even if it is 15, the determination must be made on the fact that potentially they could have 49 seats.

John Elmer felt that the more this business succeeds and grows, the more the parking will become a problem. The donut shop's parking lot located by the Arby's Restaurant is always full. Because of the books, Mr. Elmer felt that this proposal invited customers to stay longer.

Mr. Crouch asked when the ownership transferred to Mr. Naftel, was he notified that parking was limited, and that the types of tenancy should be limited also? He felt that the owner was aware of the problem because of the *Touch of Greece* situation.

John Elmer stated that the guidelines are in the Code. It is up to the owners to become knowledgeable of the Code. With the history of problems with parking, the owner should have talked with the Community Development staff prior to leasing the property.

Mr. Crouch asked who should have inquired, the owners or us?

John Elmer replied that either the owners should have, or they should have provided you with information of previous problems and instructed you to find out if the City would allow this use there.

Mr. Dodson explained that negotiations for purchase of this property were taking place when this problem started. When Mr. Naftel realized what was happening with parking, he tried to alleviate the problem by eliminating a very solid tenant and allowing the *Touch of Greece* to stay. He contended that because of the mix of businesses currently leasing the building, there would not be a serious conflict with the parking.

Ms. Weitzel reiterated that the City Code specifies certain requirements for parking. If someone bought a single family home in a residential zone believing that they could open a business because they felt that it mixed with the community--it would not work--the Code does not allow it.

Mr. Dodson stated that the situation was inherited and the owner is trying to work with the situation.

Jan Pomrenke stated that if the owner rectified the parking situation, he would be able to lease the property to Mr. Crouch.

Mr. Dodson said he did not understand what else the property owner could do.

Jan Pomrenke suggested that he acquire additional property for parking so that there is sufficient parking for the tenants.

Mr. Dodson replied that Mr. Naftel has done that. He has acquired ten additional spaces behind *Kentucky Fried Chicken*.

Ms. Weitzel stated that even with those spaces, the parking is not adequate. A total of 34 spaces are needed for *Airtime*, *Pro-Look*, and the coffee shop.

John Elmer stated that until the owner purchases the parking area behind *Kentucky Fried Chicken*, it is not acceptable because the lot is up for sale and the parking could be revoked within six months of the sale.

Mr. Crouch said that when he signed the lease with the owner, the owner mentioned some of the parking problems but he also mentioned that there was an additional ten parking spaces available. He did not mention that it was on a temporary basis.

John Elmer felt that there would be a conflict in business hours on Friday and Saturday night. *Airtime's* busiest time is late afternoon and evenings on Friday and Saturday nights. If the parking lot is full and a customer drives into the parking lot and realizes that there are no parking spaces available, he would have to back out into the street because there is not enough room to turn around.

When asked what the zoning was on the north side of Belford Avenue, Ms. Weitzel replied that most of it is zoned for multifamily.

Jan Pomrenke asked if a rezone would be required to utilize it as parking?

Ms. Weitzel replied affirmatively.

Jan Pomrenke stated that there were homes for sale along Belford Avenue that were between \$12,000 and \$15,000. She suggested that this may be an option to acquire additional parking.

Mr. Dodson said he believed that the homes had already sold.

**MOTION: (JOHN ELMER) "MADAM CHAIRPERSON, ON ITEM #90-13, ON THE APPEAL OF AN ADMINISTRATIVE DECISION REGARDING THE PARKING REGULATIONS SECTION 5-5-1.I.17., I MOVE THAT WE DENY THE APPEAL."**

Sheilah Renberger seconded the motion.

A vote was called, and the motion passed by a vote of 2-0 with Jan Pomrenke abstaining.

Mr. Crouch asked if there were any other appeals that he could make.

Mr. Shaver stated that the next step would be to go to court.

GENERAL DISCUSSION

Ms. Weitzel asked the board members to consider changing the Board of Appeal's hearing date to the third Wednesday of the month. With the increased complexity of board of appeal's items and with only two weeks between submittal and the hearing date, there is not sufficient time to do a thorough review. This would also give staff and board members time get together prior to the hearing and discuss the items scheduled for the hearing.

Bobbie Paulson added that if the scheduling worked out, it would not start until the first part of next year. The hearings would be scheduled on the second Wednesday until next year.

Ms. Weitzel announced that there will be a Board of Adjustment Training seminar in Denver on November 17. The Community Development Department can provide money for one person to attend. The registration fee is \$75.00. Ms. Weitzel briefly summarized the workshop agenda.

Jan Pomrenke and John Elmer both expressed interest in attending.

John Elmer asked if they both paid their own travel expenses, would the City pay the registration fee for both he and Jan?

Ms. Weitzel replied that she would check on that.

John Elmer commented that he felt having the review sheets and discussing the items prior to the hearing helped facilitate the meeting.

The meeting was adjourned at 10:45 a.m.