

CLINTON CITY BOARD OF ZONING ADJUSTMENT MINUTES

**Jim Cox, Chair
Dennis Henry, Vice Chair
Nathan Schow
Blair Bateman
Alternate Bob Buckles**

BZA Meeting	September 17, 2019	Call to Order: 6:00 P.M.	2267 N 1500 W Clinton UT 84015
Staff Present	Community Development Director Valerie Claussen and Lisa Titensor recorded the minutes.		
Citizens Present	Doug Lindner, Ty Reese, Shelly Bailey, Daniel Valverde		
Pledge	Dennis Henry		
Prayer or Thought	Nathan Schow		
Roll Call and Attendance	Board Member Bateman, Board Member Henry, Board Member Schow, Board Member Buckles and Chairman Cox		
Approval of Minutes	The Board of Zoning Adjustment has reviewed the minutes of the last BZA meeting and responded to the Secretary by e-mail for approval.		
REVIEW AND ACTION ON A REQUEST BY SHELLY BAILEY FOR THE FOLLOWING VARIANCES: (1) REDUCE THE MINIMUM PARKING STALL DIMENSIONS FROM 20' X 9' TO 14' X 9.63' FOR 15 STALLS; AND (2) REDUCE THE MINIMUM NUMBER OF PARKING STALLS FROM 44 TO 14 STANDARD (20' X 9') AND 15 REDUCED (14' X 9.63') STALLS FOR A TOTAL OF 29 STALLS TO ACCOMMODATE A PROPOSED PRE-SCHOOL AND DAYCARE CENTER LOCATED AT 1387 W 1800 NORTH (PARCEL NO. 14-004-0050).			
Petitioner:	Shelly Bailey, On My Way Preschool		
Public Hearing and Discussion	<p>SITE BACKGROUND: The site was rezoned from residential to commercial by the City Council on October 12, 1976. The rezoning request was so a dance school could be located there, and also the right to retain some kind of caretaker apartment on the property. Subsequently, in the mid-1980's there was Council action for special exceptions to retain a residential use. The surrounding Sun Ray Villa subdivision was recorded in 1978. Based on historic records since the time the site was no longer utilized as a church, it appears to have always been a unique property challenged with too large of a building on a small lot and not enough parking available for many commercial uses. Various businesses from a dancing/gymnastics studio, a costume place, to a counseling center have all been located at this site throughout the years. Through the years there have been incremental updates and changes to the site. Most recently, in 2011, a counseling center with a maximum occupancy of 31 people had been approved. The current proposal increases that occupancy by six times.</p> <p>PROJECT BACKGROUND A request for site plan approval was brought before the Planning Commission at their July 16, 2019 meeting. Due to the parking issues, the project was continued until it could be heard by the Board of Zoning Adjustments, prior to any additional review of the site plan. Some modifications to the site have been proposed in conjunction with this variance submittal. The revised site plan is attached for reference.</p> <p>PROJECT PROPOSAL The request is for a daycare center licensed for up to 180 children in an existing building, with existing site improvements. The site proposes to undergo minor changes with the widening of the driveway entrance to just over 26 feet, and the removal of some landscape, grass, and the sidewalk toward the northern end of the parking lot to accommodate 14 full size (9 ft by 20 ft) parking stalls. There are no anticipated changes to the exterior of the building. The interior of the building does require a number of updates to change the building occupancy, from fire sprinkling to ADA compliance items. In addition, electrical, HVAC, and roof improvements are also proposed to be completed.</p> <p>VARIANCE REQUESTS (1) Reduce the minimum parking stall <i>dimensions</i> from 20' X 9' to 14' X 9.63' for 14 stalls; and (2) reduce the minimum <i>number</i> of parking stalls from 44 to 14 standard (20' X 9') and 15 reduced (14' X 9.63') stalls for a total of 29 stalls</p> <p>Section 28-10-8 establishes the provisions that the Board of Zoning Adjustments may hear and decide variance requests for the waiving or modifying of the requirements of the Zoning Ordinance as applied to a parcel of property that one owns, leases and/or has beneficial interest. The variance may only be granted if all of the five findings, which are the same ones required by Utah State Code 10-9a-702(2) can be made.</p>		

Additional discussion of these findings is attached to this report.

ANALYSIS:

Clinton City development standards do not allow for off-site parking for commercial uses. Meaning that all parking (and vehicular circulation) for non-residential uses must be provided on the parcel in which the business is located¹. Dimensions and parking lot configuration under these particular circumstances requires specific discussion and review because this is a high turnover use with many cars coming and going from the site in a smaller than standard parking lot, with the only driveway located directly onto a state route, 1800 North (SR 37).

Parking Stall Dimensions. The current site plan proposes 14 full size (9 ft by 20 ft) stalls and 15 reduced (9.63 ft by 14 ft) stalls. The length of today's cars is about 15 feet, while full-size SUVs are 18 feet or more in length. The southern portion of the parking lot has the 14 ft deep stalls, and Staff recommends the removal of one of the two rows so that full size parking stalls can be accommodated². In addition, the ADA parking stalls must be updated to reflect a minimum of 11 feet wide and 20 feet deep with a 5 foot aisle. The currently proposed ADA stalls are unacceptable.

A variance to reduce the minimum dimensions (or size) of the parking stalls cannot meet the five required findings, as discussed in greater detail in the attachment. Therefore, the parking lot should be revised to provide standard parking stall sizes. It is anticipated that there will be approximately 21 parking stalls, including 2 ADA compliant spaces.

Number of Parking Stalls & Parking Reductions

Section 28-4-14 of the City's Zoning Ordinance states that *"the Board of Zoning Adjustments may authorize a reduction in the proportions required in the Ordinance if it should find that in the particular case, the peculiar nature of the buildings or premises or the exceptional situation or condition would mitigate the need for the parking spaces as specified in the Ordinance."*

Section 28-4-5 of the City's Zoning Ordinance requires the minimum number of parking stalls for day cares to be four (4) spaces, plus one (1) space per 500 square feet of area, plus one (1) space per employee at the highest shift.

Calculation: $4 + (13,681 \text{ SF} / 500 = 28) + (1 \times 12 \text{ employees} = 12) = 4 + 28 + 12 =$ minimum 44 parking stalls required.

To calculate parking under standard conditions, the actual square footage of the building is used of 13,681 SF divide that by 500 which equals 28, plus 4 stalls, plus the number of employees at highest shift, which is likely between 12 to 16 for this size of center, and **the minimum number of parking stalls required is between 44 and 48.** This number is commensurate with other lighter commercial uses, such as a museum requiring a minimum of 49 stalls or general offices requiring a minimum of 61 stalls. **This exercise provides context for the amount of parking that would be required for this size of building to be used to full capacity**³.

An occupancy of 200 and licensure for 180 children exceeds what the current parking can appropriately support under the City's minimum development standards. So a different approach to determine the maximum capacity will need to be employed. The applicant provided information in the site plan submittal that will carry forward with this variance request, which was the data they compiled regarding actual counts for drop-offs/pick-ups at their existing facility. **It was also strongly encouraged for the applicant to**

¹ There are instances where adjacent parcels will enter into cross access and cross parking easements which are also acceptable. There are even more rare instances where a parcel qualifies for off-site parking on a completely separate, but nearby, parcel but that parcel is created as another parking lot. Parking permitted along city streets is not counted toward the required off-site parking.

² This modification to the parking lot will also likely provide better alternative locations for the trash enclosure, as well as provide room for snow storage area.

³ Previous discussions the applicant had with the former building official with a proposed 200 occupancy were out of scope, based on limited information and did not include a full site plan submittal. It attempted to determine intensity of use based on building code standards (minimum 35 SF/child) and theoretically reducing the amount of building square footage that would be used in the zoning code parking calculation. Mixing of the two different types of standards did not provide a viable or realistic number. With a more comprehensive review through the site plan process, additional deficiencies have been identified and substantial concerns with these preliminary numbers must now be re-evaluated and addressed.

submit a parking study (typically completed by a hired certified/licensed professional) with the parking reduction request; however, one was not provided. **In lieu of a parking study, Staff prepared a parking survey to ensure that an adequate analysis could still be performed to determine what recommendations would appropriate for a parking reduction, which is directly related to and determines the intensity of use for the site and ultimately the maximum occupancy of the building.**

The results of the parking survey for several facilities located in surrounding cities are attached for review. The analysis included a survey of surrounding day care facilities, the parking requirements of surrounding cities, many which are calculated on the number of employees and children (not the square footage of the building), a comparison in size of parking lot area between the Roy site and the Clinton site, and lastly an analysis of the estimated trip count and peak use of parking at the Clinton site. The recommendation is approving a reduction from 44 stalls to **a minimum of 21 full size parking stalls for a maximum of 85 children at the center.**

Center Capacity & Trip Count

The applicant's data count indicates that at their existing facility for 135 children they have an average of 71 trips a day with an afternoon peak of 22 trips between 4 pm and 5 pm. The proposed Clinton facility at a capacity of 180 children would then increase the average trips to over 94 with a peak afternoon pick up of 29. In this scenario the peak hours and even the drop-off/pick-up windows exceed the available parking on-site. Under the recommended capacity of 85 children the trip counts are much more in line with the availability of on-site parking at any given time throughout the day and most importantly at peak hours.

CONCLUSION

The site needs to provide the minimum standard size of parking stalls. The five findings to approve a variance for a reduction in dimensions cannot be met. However, under the City's zoning code provisions, a reduction in the number of parking stalls can be justified when the intensity of the use of the property is appropriately tied to the capacity of the parking. This means that it is anticipated that with 21 parking stalls, the maximum number of children to be licensed for the facility would need to be approximately 85 children.

PUBLIC COMMENT:

During site plan review Staff received a phone call regarding the proposal and he was concerned about whether or not there is enough parking for the proposed use at this location. No additional comment has been received to date.

The criteria required statutorily for a variance cannot be satisfied as outlined in the table included as **Attachment A.**

In addition, there is also a Daycare Facility Parking Survey conducted by staff which is included as **Attachment B.**

Ty Reese stated he is the real estate agent for the petitioner. He explained this process began a year ago when they reached out to Clinton City to make inquiries about the building zoning and occupancy requirements. On October 4, 2018 he received an email from Building Official Mike Fisher which is included as **Attachment C** identifying the occupancy load of the building.

From that information they proceeded in good faith, to make an offer on this building. The offer was accepted in December of 2018.

They proceeded to have several meetings with Clinton City to review the code and met with WC3 for ADA compliance requirements with the intent to repurpose the building to meet code requirements including updating the electrical, HVAC, roof improvements and ADA compliance requirements etc.

His client has spent thousands of dollars based on information provided from Clinton City and then in July was presented with the parking constraints in July by the City. During a Planning Commission meeting the Planning Commission recommended adjusting the parking and **to** then apply to the BZA for a variance request. It is impossible to move the boundary lines of the building which significantly restricts the ability to increase the size of the parking lot. This building was built years before most of the buildings in Clinton so the code cannot apply to this situation. This is a 14,000 sq. ft. building with parking they feel is ample for a day care.

He referred to a proposed use and narrative statement they submitted to Clinton City which is included as **Attachment D**.

He reviewed data from his client's existing facility in Roy. He explained there has never been more than 5 or 6 cars at any time even during peak hours at the Roy location. UDOT has reviewed the information and identified they have no problem with this use in this location.

This will be an education facility for children; the parents will only be dropping children off. A daycare is not comparable to other uses like a museum.

During their discussion, the BZA considered the following items identified by bullet points:

- Parking requirements for schools
- The desire to have the UDOT report provided to the City to be kept with application and subsequent decision.

Ms. Claussen responded that this will be a requirement for the site plan approval.

- The intent for capacity of the facility.

Mr. Reese said the intent would be 200 occupancy with the understanding that the average would actually only be about 70% occupancy.

Ms. Bailey commented that 200 occupancy is low for this size of building and because of all the costs involved for improvements to the building.

- How were original numbers provided in an email from Clinton City staff established?

Ms. Claussen responded correspondence was based on building code requirements not a zoning site plan perspective. Only a limited amount of information was initially provided to the City.

Christy Vail stated she is here representing the seller of the property as the listing agent. This is the second day care being proposed for this site. This is an ideal spot for a daycare which is very much needed in the community.

This property has been listed for three years; the owners have done everything that has been asked to accommodate a sale. The buyer has spent approximately \$30,000 so far and the seller has lost over \$140,000 with these delays.

- ADA compliant parking spaces.

Mr. Reese responded adjustments to accommodate handicap parking can be made.

- Concern for parking lot congestion, as well as overflow onto 1800 N especially during peak times.

Ms. Bailey responded she understands this concern; the difference between a daycare and school is that parents are dropping off and picking up their children to go to work and to go home. They are only parked for approximately 5 minutes. Parents clock in and clock out which has helped provide statistics. There are only approximately 20 cars within an entire hour. It is not comparable to elementary schools. A teacher can stand outside and guide parents if needed.

Ty Reese clarified kids are escorted by their parent to their classroom.

Doug Lindner commented there are only a minimal number of children who pass by this building to go to Clinton Elementary each day.

- Traffic in and out of the parking lot and peak traffic obstruction.

Mr. Reese responded there is an existing shoulder for right turns and UDOT sees no problem with this use.

	<ul style="list-style-type: none"> • Fire safety and exits. <p>Mr. Reese responded there will be sprinklers added to the building as well as a firewall.</p> <p>Ms. Vail added there are six exits out of the building.</p> <p>Ms. Bailey commented the state has specific requirements and requires inspection and approval.</p> <p>Chairman Cox opened the public hearing and with no public comment closed the public hearing at 7:07 p.m.</p> <p>Board Member Bateman stated safety is a big concern for him.</p> <p>Board Member Henry stated he would like to see this building put to use, he is however concerned about the parking and congestion.</p> <p>Board Member Schow expressed his concern over the number requested for maximum occupancy.</p> <p>Ms. Claussen explained, right now the building requires 44 parking stalls. This Board has the responsibility to determine the intensity of use based on the data and numbers provided and how the reduction in parking could be justified without granting special privileges.</p> <p>Ms. Claussen explained the chart compares the center capacity vs. the trip count comparison. Based on the 21 stalls it shows the ration of how many stalls would be required per kid.</p> <p>The Board had additional discussion about Staff’s recommendation being conservative and understanding why, but that there might be some leeway based on the parking survey to justify a lower ratio of required parking stalls than 0.25 stall per child.</p> <p>CONDITIONS OF APPROVAL</p> <p>1) This variance is for the approval of a reduction from 44 parking stalls to 21 full size (9 feet by 20 feet) parking stalls. In the portion of the parking lot where there is not enough width for full size stalls, one of the rows will be eliminated and full size stalls will be provided. The maximum number of students will be calculated on a ratio of not less than 0.17 spaces per student; which is anticipated to be a daycare center licensed for not more than 123 children.</p> <p>Furthermore, the site does not have the parking capacity to also run specifically scheduled classes during the day, (e.g. pre-schools, kindergartens, performing arts, karate, etc.). Any type of scheduled classes would have to be held after daycare hours and cannot exceed a class size of 25 students.</p> <p>2) ADA parking must meet regulation sized parking stalls, which are 11 feet wide by 20 feet deep with a 5 foot aisle.</p> <p>3) Pursuant to Section 28-4-7 of the Zoning Ordinance parking shall be on the same lot with the main building. Absolutely no parking will be permitted along 1800 North or 1400 West. This includes “short-term” (drop off and pick up) and longer-term (all day) parking.</p> <p>4) Variance approval is subject to obtaining site plan approval from the Clinton City Planning Commission.</p> <p>5) Variance approval is subject to obtaining UDOT permits and written approval.</p> <p>6) Prior to issuance of a business license, a copy of the State license shall be submitted, which demonstrates the maximum number of children licensed for the center.</p>
<p>CONCLUSION</p>	<p>Board Member Schow moved to deny the request for a reduction in the size of the parking stalls because the five findings for a variance cannot be met. Board Member Henry seconded the motion. Voting by roll call is as follows: Board Member Bateman, aye; Board Member Henry, aye; Board Member Schow, aye; Board Member Buckles, aye and Board Member Cox, aye.</p> <p>Board Member Schow moved to grant a variance to the petitioner to allow 21 to 22 full size stalls be lowered to .17 with 123 Occupancy. Board Member Henry Seconded the motion with the contingency that no overflow parking is allowed on 1800 N. Voting by roll call is as follows: Board Member Bateman, aye; Board Member Henry, aye; Board Member Schow, aye; Board Member Buckles, aye and Board Member Cox, aye.</p>
<p>Training</p>	<p>Utah Open and Public Meetings Act Training</p>
<p>ADJOURNMENT</p>	<p>Board Member Schow moved to adjourn. Board Member Buckles seconded the motion.</p>

	Board Members' Bateman, Henry and Schow voted in favor. The BZA adjourned at 8:02 p.m.
Approval of Minutes	DRAFT minutes sent by e-mail to BZA for approval on September 19, 2016. Notice of approval received by: <ul style="list-style-type: none">• Board Member Cox• Board Member Schow• Board Member Henry• Board Member Buckles• Board Member Bateman