

**Minutes  
City of Huntington Board of Zoning Appeals  
October 17, 2023**

A meeting of the City of Huntington Board of Zoning Appeals was held on October 17, 2023 at 5:30 p.m. in the City Hall Council Chambers. *Ms. Proctor* called the meeting to order.

Members Present: Jacqueline Proctor, Steven Yates, Sara Loftus, Gina Browning, Dan Earl, Sherry Houck

Members Absent: N/A

Staff Present: Cade Williams, Planner II  
Bre Shell, Planning Director  
Ericka Hernandez, Assistant City Attorney  
Steven Curry, Planner II

Hearing no corrections or objections, *Ms. Proctor* approved the September Minutes, and all present were in favor.

Hearing no corrections or objections, *Ms. Proctor* approved the September Orders, and all present were in favor.

**BZA 23-C-30**

A petition for a conditional use to be permitted for a self-storage development to be established in the I-1 Light Industrial/Commercial District. The property is located at 4711 Piedmont Rd.

*Petitioner/ Property Owner:* Brian Browning, 5821 E Pea Ridge Rd #19, Huntington, WV

Ms. Shell presented the Staff Report.

Brian Browning, 5821 E Pea Ridge Road, expressed he would like to build a self-storage facility. He mentioned he would like to make it nice and had to go under rezoning from R-1 Single-family Residential to I-1 Light Industrial/Commercial. Additionally, he plans on having an office at the site for personnel to operate the facility.

Ms. Proctor – How many units are you going to have here?  
Mr. Browning confirmed 175 units will be on the site.

Ms. Proctor – Are they going to be one level or two levels?  
Mr. Browning confirmed the units will be one-story.

Ms. Proctor – When you say someone will be on duty what will their hours be?  
Mr. Browning confirmed office hours (including working hours for the employee) will be 9AM to 6PM, an 8 hour day.

Ms. Proctor questioned if tenants will be able to access their units 24-7. Mr. Browning confirmed 24 hour access with a passcode locked gate. Ms. Proctor then questioned overall security of the facility. Mr. Browning confirmed lighting, 24 hour surveillance, and pass-coded locks with an activity log. He also mentioned he will only be renting storage 10' x 10' units at this site and confirmed the cars on the

property currently will not be there in the future. He mentioned he is allowing a friend to temporarily store vehicles there but that will stop by the time the self-storage development is operational.

Ms. Proctor – Has this area in terms of city code always been I-1? Or how long has it been I-1 generally?

Ms. Shell explained the three parcels rezoned with this project was rezoned to I-1 and the larger lot attached to these parcels have been industrial for some time.

Ms. Loftus made a motion to approve BZA 23-C-30. Mr. Yates seconded motion.

Roll Call BZA; Ms. Houck, Yes; Ms. Loftus, Yes; Mr. Yates, Yes; Ms. Browning, Yes; Mr. Earl, Yes; Ms. Proctor, Yes.

BZA petition was approved with a vote 6 Yes to 0 No.

#### **BZA 23-V-31**

A petition for a variance to the minimal transparency requirement for the front façade of a building in the I-1 Light Industrial/Commercial District. The property is located on 1502 Madison Ave. at the northwest intersection of Madison Avenue and 15th Street West.

*Petitioner/Property Owner:* Ashley Stewart, Ashley Claire Stewart Revocable Trust, 17 Washington Ave., Huntington, WV.

Ms. Shell presented Staff Report.

Carl Eastham, 340 1<sup>st</sup> Street, represented the petition and started with showing some pictures to the board. He explained the photos he provided show current conditions and this project would not impact any residential area. He mentioned he thought the door that was installed would count for transparency which turned out to not be valid. Additionally, he mentioned various attempts of criminals breaking into the building even though the building has an alarm system. He noted enhanced lighting will be implemented on the exterior of the building and cameras installed inside and outside the structure. He concluded the door blends in with the façades of neighboring buildings and the area which would not take away from the scenery of the neighborhood.

Mr. Earl mentioned he did not see an issue with the door. Ms. Proctor questioned if Ms. Shell was notified of the door before installation. Ms. Shell explained she was only made aware of door measurements and discussed with the petitioner the transparency requirement as well as the questioning of applying for a variance. Additionally, Ms. Browning noted she could see the petitioner's reasoning behind not wanting to add more windows due to crime as she previously managed the business next door to this property and experienced issues with criminals attempting to break into her place of employment.

Mr. Yates – What's the use of the old door? Is it still going to be as an entrance and exit?

Mr. Eastham confirmed it will still be used for an entrance and exit.

Mr. Earl made a motion to approve BZA 23-V-31. Ms. Houck seconded motion.

Roll Call BZA; Ms. Loftus, Yes; Mr. Yates, Yes; Ms. Browning, Yes; Mr. Earl, Yes; Ms. Houck, Yes; Ms. Proctor, Yes.

BZA petition was approved with a vote 6 Yes to 0 No.

**BZA 23-C-32;**

A petition for a conditional use to be permitted for a limited video lottery to be established in the C-2 Highway Commercial District. The property is located at 2333 Adams Ave.

**BZA 23-C-33;**

A petition for a conditional use to be permitted for a bar to be established in the C-2 Highway Commercial District.

**BZA 23-V-34;**

A petition for a variance to the distance requirement from a limited video lottery for a new limited video lottery to be established in the C-2 Highway Commercial District.

**BZA 23-V-35;**

A petition for a variance to the distance requirement from a church for a limited video lottery to be established in the C-2 Highway Commercial District.

**BZA 23-V-36**

A petition for a variance to the distance requirement from a residential area for a limited video lottery to be established in the C-2 Highway Commercial District.

*Petitioner:* Sherry Kipp, 1713 Chestnut St., Kenova, WV

*Property Owner:* Ronnie Myers, 2333 Adams Ave., Huntington, WV

Ms. Shell asks for permission to talk about all petitions in one set due to relation. Ms. Proctor approved request.

Ms. Shell gives staff report. She offered to the board the opportunity for additional information if needed.

Ms. Proctor questioned the relevance of the variances in regards to the approval of the conditional uses. Ms. Hernandez confirmed BZA 23-C-33 was not approved, then the variances would be moot. If the variances were not approved, BZA 23-C-33 would be moot.

Mr. Earl – Do you know when the prior use began and when it ended?

Ms. Shell confirmed the prior use ended in December 2019 and was unsure when it had started.

Ms. Hernandez and Ms. Shell agreed the building had been used as bar before 2013.

Robert Sharp, 1713 Chestnut Street, represented petition. Stated him and his girlfriend (Sherry Kipp) would like to clean up and repair the place, make it safe with security upgrades, and give back to the community with their business. They are wanting to have a sports bar at this location. Ms. Kipp had him to speak on her behalf.

Mr. Yates – Is the limited video lottery integral to your business plans or is it for later on down the road?

Mr. Sharp confirmed they are wanting to establish the bar first and the limited video lottery would come into the bar later.

Mr. Earl mentioned the difficulty with acquiring the rights for a limited video lottery through the State of West Virginia. Mr. Sharp agreed with this statement and acknowledged a wait time for limited video licensing and machines. Ms. Proctor confirmed with Mr. Sharp that they would like to open a bar with a limited video lottery down the road and that they want to do something to benefit the community.

Sherry Kipp, 1713 Chestnut Street, came up to speak about her petition. She confirms they would like to do the bar first and do the limited video lottery later. The bar is their first priority. Mr. Yates questioned her bar business experience. Ms. Kipp confirmed they are novice to this field.

Ms. Proctor – Do you have a business plan?

Ms. Kipp stated if this petition was approved they would get their license and develop a plan.

Terry Kipp, 2233 State Route 75, Kenova, West Virginia spoke to support of the petitions. He thinks his sister and brother-in-law has good intentions. Personally, he is a real estate professional and will guide them through this journey to ensure their business is successful. He noted a new business would fill up a vacant space and highlighted the opportunity for tax revenue for the community.

Ms. Proctor questioned if he will be their business manager and help them develop the business plan. Mr. Kipp confirmed this to be true.

Jim Rumbaugh of 3600 Oakview Drive, spoke in objection to the petitions. Mr. Rumbaugh remembers the previous bar that operated there. He is concerned with light and sound pollution. He is also concerned with the amount of limited video lotteries and places to gamble in the neighborhood as well as city. Additionally, he is concerned about safety.

Mr. Earl questioned his residence. Mr. Rumbaugh confirmed he does not live in close proximity to this property, but is the President of the West Huntington Neighborhood Organization and this location had come up when it had been previously used as a bar in the past frequently. Additionally, members of the West Huntington Neighborhood Organization have expressed concern regarding the idea of a bar and limited video lottery coming into this location.

Jack Lowker, 2318 Washington Avenue, spoke in objection to the petitions. He explained his experience of living near this building when it was bar. He described the numerous calls to police due to crime and having someone who was intoxicated sleeping on his porch. Additionally, he stated a bar nearby, Liquid Dreamz, acquired their license in July to his knowledge.

Mike Bunyon, 2312 Adams Avenue, spoke in objection to the petitions. He stated he has lived at this address for over 40 years right across the street from the bar. He claims this location is a magnet for crime and has seen problems with all owners of this property. To his knowledge the police department has offenses on record. He added he had to make improvements to his home because of the crime.

Sue Williams, 630 Madison Ave, spoke on behalf of Saint Peter's Episcopal Church in objection to these petitions. A concern of the church were the amount of petitions requested to violate the zoning code. She is concerned of crime going up once this business opens up due to the church's various events, especially ones in the evening. She also noted since the previous business has been gone there has been less crime. Overall, safety as well as parking are major concerns of the church.

Mr. Earl saw the positive value of having a new business in the area; but, noted it is problematic that the intensity of ordinance violations associated with this business idea and the amount of concerns from residents.

Ms. Loftus expressed the past may not be repeated with the new owners and measures could be taken to curb old habits. But, she was also concerned with the amount of variances. Ms. Hernandez noted the variances area for the LVL (Limited Video Lottery), not the bar. Ms. Houck expressed concern with the variances too.

Mr. Yates noted the lack of experience of the petitioners and location for this bar/LVL is concerning.

Ms. Browning stated she agrees with a lot of things others mentioned and recommends for the petitioners to consider doing a restaurant instead.

Mr. Sharp questioned concerns of comments towards previous bars at this location. Ms. Proctor clarified the concern is from an older population of residents in this neighborhood that don't want to see a repeated scenario, despite good intentions.

Ms. Houck made a motion to approve BZA 23-C-33. Mr. Yates seconded motion.

Roll Call BZA; Mr. Yates, Yes; Ms. Browning, Yes; Mr. Earl, No; Ms. Loftus, Yes; Ms. Houck, No; Ms. Proctor, No.

BZA petition was approved with a vote 3 Yes to 3 No.

Ms. Proctor requested a motion to go into recess.

Mr. Yates made a motion to go into recess. Ms. Browning seconded motion.

Recess was approved with a vote 6 Yes to 0 No. Meeting was paused and board members and the public were allowed to stay in council chambers during this time.

*Normal session resumes.*

Ms. Proctor explained Ms. Houck's vote does not count as she is an alternate and the five main members of the board are present. A recess was taken for Ms. Hernandez to explain this to board members.

Ms. Shell announces the official vote for BZA 23-C-33 is: Ms. Browning, Mr. Yates, and Ms. Loftus, Yes; Mr. Earl and Ms. Proctor, No.

BZA petition was approved with a vote 3 Yes to 2 No.

Ms. Proctor asked if the petitioner would like to stand up to represent BZA 23-V-34, BZA 23-V-35, and BZA 23-V-36. Ms. Kipp stated she will work with community members and want to do this right. Additionally, Mr. Kipp came up to represent these variances and ask for the prior use of the facility to be considered.

Mr. Earl made a motion to approve BZA 23-V-34. Mr. Yates seconded motion.

Roll Call BZA; Ms. Loftus, No; Mr. Yates, No; Ms. Browning, No; Mr. Earl, No; Ms. Proctor, No.

BZA petition was denied with a vote 0 Yes to 5 No.

Ms. Browning made a motion to approve BZA 23-V-35. Mr. Yates seconded motion.

Roll Call BZA; Mr. Yates, No; Ms. Browning, No; Mr. Earl, No; Ms. Loftus, No; Ms. Proctor, No.

BZA petition was denied with a vote 0 Yes to 5 No.

Ms. Browning made a motion to approve BZA 23-V-36. Mr. Yates seconded motion.

Roll Call BZA; Ms. Browning, No; Mr. Earl, No; Ms. Loftus, No; Mr. Yates, No; Ms. Proctor, No.

BZA petition was denied with a vote 0 Yes to 5 No.

BZA 23-C-32 was moved to no vote and failed as the variances were not permitted.

**BZA 23-C-37**

A petition for a conditional use to permit a bar to be located in the C-3 Central Business District. The property is located at 907 4th Avenue.

*Petitioner:* BAC LLC d/b/a Hank's, 517 9<sup>th</sup> St., Huntington, WV.

*Property Owner:* Premier Properties LLC, 907 4<sup>th</sup> Ave., Huntington, WV.

Ms. Shell presents Staff Report.

Daniel Yon, 517 9<sup>th</sup> St, represented the petition as the attorney for Hank's. He explained the history of Hank's being in the city and noted there has been no fines nor offenses brought forth against the business during its tenure in the city. Bethanne (owner of Hank's) would like to move the business to this new location being in the PODA District, high volumes of foot traffic from festivities, and the heightened desirability of being in downtown as it is a focal point in the city.

Ms. Hernandez confirmed Hank's is currently in the PODA District; but, this new location would put it closer to participating businesses.

Ms. Proctor – What kind of sound codes do we have for the city in that district or in downtown in general?

Ms. Hernandez confirmed the sound ordinance is city wide and they are convoluted depending on the use.

Ms. Proctor questioned side yard in site plan. Mr. Yon explained the property owner will fence off that area to make it a patio for seating.

Mr. Yates made a motion to approve BZA 23-C-37. Mr. Earl seconds approval.


Roll Call BZA; Ms. Loftus, Yes; Mr. Yates, Yes; Ms. Browning, Yes; Mr. Earl, Yes; Ms. Proctor, Yes.

BZA petition was approved with a vote 5 Yes to 0 No.

**Good and Welfare**

Ms. Shell introduced and welcomed the newest member in the Planning and Zoning Department, Mr. Steve Curry.

Ms. Proctor adjourns the meeting at 7:35 p.m. Date approved: 11-21-23

Chairperson:  Prepared by:   
Dan Earl, Vice Chair Cade Williams, Planner II