



**MINUTES
BOARD OF ADJUSTMENT
COMMUNITY CHAMBERS
20727 E. CIVIC PARKWAY
JUNE 5, 2018
5:00 PM**

1. Call to Order and Introductions

The meeting was called to order at 5:02PM.

2. Roll Call

Board Members in attendance: Brague, Schuett, Rotier, and Benson (Board Member Moyer was absent)

3. Public Comment: Members of the public may address the Board on items not on the printed agenda. Please observe the time limit of (3) three minutes.

None.

4. Items for Discussion and Possible Action:

a. Approval of the December 4, 2017 Meeting Minutes

Motion to approve December 4, 2017 Meeting Minutes

1st: Schuett

2nd: Benson

Vote: 4 – 0 (Board Member Moyer was absent for the vote)

b. Case P18-0094: Hearing Officer Decision Appeal for Case #18-0113, a request from Thomas N Swift (Attorney for Platinum Paint & Body LLC) reversing the decision of the Hearing Officer made on March 28, 2018.

Bradley Burns, representative of the Town's attorney Dickinson Wright, noted that the firm advocates for the Town's position. Mr. Burns asked that the Board affirm the decision of the Hearing Officer.

Victor Martinez, Code Compliance Supervisor, summarized the appeal request by Alfredo Lopez Platinum Paint & Body LLC, appealing the decision of the Hearing Officer made on March 28, 2018. Mr. Martinez presented an aerial map of the subject site. Mr. Martinez summarized the roll of the Board of Adjustment regarding the appeal, which includes reversing or affirming the Hearing Officer's Decision. Mr. Martinez presented the Site Plan that was approved in 2007 for the site and noted the parking stalls for the site. Mr. Victor noted that on-street parking was not specifically approved for this Site Plan.

Mr. Martinez summarized the code violations for the site, which included not parking vehicles on the same parcel as the principal structure. Mr. Martinez provided photo examples of vehicles stored along the street needing repairs.

Board Member Rotier inquired: are all cars in the photo involved in the violation? Mr. Martinez noted that the wrecked vehicles are involved in the violation. Mr. Martinez also noted that he observed Platinum Paint and body employees drive other non-visibly wrecked vehicles and bringing them onto the site. Board Member Benson inquired: approximately, how many vehicles are involved? Mr. Martinez responded, stating that there were approximately 40 vehicles that were visibly wrecked. Mr. Martinez also added that the property owner stated at the Hearing Officer hearing that he has observed 40 and above vehicles that were visibly wrecked on the street. Board Member Rotier inquired: who maintains these streets; are they public? Mr. Martinez noted that he will have to review the plat to determine maintenance of these streets, as the site is located in an HOA industrial park.

Board Member Rotier inquired if there were parking restrictions on the streets within the industrial park. Mr. Martinez stated that there are no parking restrictions, however there is a study underway to implement parking restrictions

Mr. Martinez summarized other code violations including building shade structures without a permit and installing cargo containers without Town approval.

Board Member Benson inquired: are the vehicles impacting the fire lanes? Mr. Martinez noted that the vehicles are obstructing the fire lane.

Mr. Martinez summarized the history and dates of the code complaint, subsequent proceedings, and hearings.

Mr. Martinez stated that Staff recommends the Hearing Officers decision be affirmed.

Mr. Burns added that the Board has the power to affirm, reverse, or modify the Hearing Officer's decision. Mr. Burns noted that the Board is not sitting in judgement of the traffic citations; the Board is hearing the zoning violations associated with the use of the property.

Tom Swift, representative of the appellant, summarized the documents and information provided in the packet he provided the Board. Mr. Swift summarized the history regarding the business license issued in March 2013 for the Platinum Paint & Body auto body repair business. Mr. Swift noted that they were not made aware of the need to accommodate parking on the site at the time of the business license approval. Mr. Swift noted that the existing parking available is not sufficient for the parking needed for the business.

Mr. Swift stated that the business located at the Power Marketplace Industrial Park was intended as an overflow area for the business owner's other auto body business in Gilbert. Mr. Swift noted that Mr. Lopez moved his Gilbert operations to the Queen Creek location in January 2018. Mr. Swift summarized the citations, listed below, and discussed contentions with the citations and Zoning Ordinance requirements.

1. Failure to follow parking requirements for uses not identified
2. Failure to provide parking area on the same parcel as principal structure
3. Not parking business vehicles according to the approved Site Plan

Mr. Swift noted that the Maricopa County Sheriff Officers visited the site and stated that there is nothing wrong with parking on the street, so long as the license plate is removed and placed on the dashboard so those vehicles could be identified.

Mr. Swift summarized the section of the Zoning Ordinance dealing with the second citation and noted that this section of the Zoning Ordinance only addresses with off-street parking, not on-street parking.

Mr. Swift noted that the Site Plan was approved in 2007 and in 2013 when applying for a business license, there was no parking requirement that the appellant was made aware of. Mr. Swift stated that Mr. Lopez was not aware that he would not be able to park on-street as on-street parking is not prohibited.

Board Member Benson inquired: how many vehicles at a given time are at the business. Mr. Lopez, appellant and business owner, stated that he did not know he was breaking any regulations. Board Member Benson inquired: did the appellant know that he would not be able to store the vehicles on the site? Mr. Lopez responded, stating that he didn't think it would be a problem. Board Member Benson expressed his concern with parking customers' vehicles on a public street.

Board Member Benson stated that the business has had a business license since 2013 and noted that complaints have not be submitted until 2018; Board Member Benson asked for clarification on what might have happened in 2018 that resulted in a citation. Mr. Lopez responded, stating that a compliant was submitted.

Chairman Brague asked the appellant if the majority of the cars parked on-street were associated with his business. Mr. Lopez stated that there are vehicles parked on-street that are not associated with his business. Chairman Brague inquired if some of the vehicle inventory is parked overnight on the street. Mr. Lopez responded, stating that yes some vehicles are parked overnight. Chairman Brague asked for an estimate regarding how many vehicles would be parked on-street overnight. Mr. Lopez stated that he did not know.

Mr. Lopez stated that he contacted the property owner to the north for permission to park his vehicles on his vacant lot, however accordingly to the applicant, Michael Williams, Building Safety Manager, stated that he would need permits to do so. Board Member Rotier inquired: did you apply for temporary parking permits? Mr. Lopez stated that he did not think it was possible. Board Member Brague stressed the liability of dust control on temporary lots.

Board Member Rotier inquired if Mr. Lopez considered purchasing additional property to store the vehicles. Mr. Lopez responded, stating that they are applying for an 8-acre Site Plan at the intersection of Power Road and Pecos Road for his business through the Town of Gilbert.

Board Member Benson inquired: what is the plan moving forward to address the storage of vehicles? Mr. Lopez responded, stating that he is aware that he has a problem.

Board Member Schuett inquired: what is the timeline for the relocation of the business? Mr. Lopez estimated 6 months following the approval of the Site Plan by the Town of Gilbert. Chairman Brague asked if there was documentation showing that a Site Plan was submitted to the Town of Gilbert.

Board Member Benson inquired if there was a location for storing the vehicles, would it be pursued? Mr. Lopez responded, stating that he would. Board Member Benson provided example locations of other storage yards which other auto dealerships store overflow vehicles.

Chairman Brague inquired: are there other businesses in the industrial center that have had parking issues and have made parking arrangements to satisfy parking needs? Mr. Burns responded, stating that some businesses do park cars on the street in violation of their Site Plans. Mr. Martinez added, stating that notices have been issued to these businesses and they have made agreements to park excess vehicles off-site.

Mr. Lopez also stated that there are photos of another business in the development that is parking-on street. Board Member Benson stated that those vehicles are only parked during the hours of business.

Motion to affirm the decision of the Hearing Officer.

1st: Benson

2nd: Rotier

Vote: 4-0 (Board Member Moyer was absent for the vote)

c. Board of Adjustment Administration (Vice-Chair Appointment)

Motion to approve Board Member Rotier as Vice-Chair

1st: Schuett

2nd: Benson

Vote: 4-0 (Board Member Moyer was absent for the vote)

5. Announcements

None.

6. Adjournment

Motion to adjourn at 6:00PM

1st: Rotier

2nd: Benson

Vote: 4-0 (Board Member Moyer was absent for the vote).

Town of Queen Creek Board of Adjustment



Allison Brague, Chairman

ATTEST: _____


Sarah Mertins, Senior Planner

I, Sarah Mertins, do hereby certify that, to the best of my knowledge and belief, the forgoing Minutes are a true and correct copy of the Minutes of the June 5, 2018 Meeting of the Queen Creek Board of Adjustment. I further certify that the meeting was duly called and that a quorum was present.



Sarah Mertins, Senior Planner

Passed and approved on October 22, 2018.