



# CITY OF BELLAIRE TEXAS

## BOARD OF ADJUSTMENT

APRIL 9, 2014

Council Chamber

Regular Session

7:00 PM

7008 S. RICE AVENUE  
BELLAIRE, TX 77401

### 1. CALL TO ORDER

Chairman Bacile called the meeting to order at 7:00 PM.

### 2. PLEDGE TO THE FLAG (US AND TEXAS)

**Texas Pledge: (Honor the Texas Flag: I pledge allegiance to thee, Texas one state under God, one and indivisible).**

Chairman Bacile led the Board and the public in the pledges to both flags.

### 3. CERTIFICATION OF A QUORUM

Chairman Bacile certified that a quorum was present.

Attendee Name	Title	Status	Arrived
Nick Bacile	Chairman	Present	
Patty McGinty	Board Member	Present	
Amar Raval	Board Member	Present	
Carmen Bechter	Board Member	Present	
Tom Ligh	Board Member	Present	
Aashish Shah	Board Member	Absent	
Debbie Sharp	Board Member	Present	
Shawn Cox	Development Services Manager	Present	
Ashley Parcus	Secretary	Present	

### 4. APPROVAL OF MINUTES

1. Board of Adjustment - Regular Session - Jan 21, 2014 7:00 PM

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Patty McGinty, Board Member
<b>SECONDER:</b>	Tom Ligh, Board Member
<b>AYES:</b>	Bacile, McGinty, Raval, Bechter, Ligh, Sharp
<b>ABSENT:</b>	Shah

### 5. REPORTS FROM OFFICERS, COMMITTEES, SUB-COMMITTEES AND COMMUNICATIONS BOARD MEMBERS HAVE HAD OUTSIDE THE MEETING

There were no reports.

### 6. UNFINISHED BUSINESS

There was no unfinished business.

### 7. NEW BUSINESS

**A. Public Hearings**

1. Docket #BOA-2014-02-Consideration and possible action to approve a Special Exception from parking requirements under Chapter 24, Division 2, Section 24-716 for 5303 Bissonnet, legally described as LT 19 & TR 18A BLK 17 Westmoreland Farms.

Chairman Bacile introduced the item to the public.

Attorney Petrov reviewed the standards for granting a special exception located in Section 24-718 of the City of Bellaire Code of Ordinances.

**Presentation by the Applicant**

**William Mao**-Mr. Mao informed the Board that he is the manager for MVM Capital Partners, LLC, and gave some background information on the Centre of Bellaire Shopping Center. He explained that the center was less than 25% occupied when he purchased the property from Amegy Bank, with Samurai Japanese Restaurant and Comcast being the only occupants. Mr. Mao stated that since 2011 MVM has invested over 2 million dollars in improvements, and has added businesses such as Safeway Driving School, McHugh's Tea Room, and Reginelli's Pizza, along with several others. He pointed out that Ruggles Green and a general contracting office are currently awaiting approval based on the results of the special exception application. Mr. Mao then reviewed what he felt were justifications for approval:

- Comcast's lease was not renewed due to the amount of traffic it was attracting to the shopping center on Fridays and Saturdays.

- Amegy Bank operates under standard bank hours with a half day on Saturdays, allowing the other businesses to use those parking spaces after their hours of operation.

- New restaurant Ruggles Green will generate more tax revenue for the City of Bellaire.

- MVM Capital Partners has been based in the City of Bellaire since 2001.

- Current parking calculation is based on typical and generally worse case scenario.

- Traffic study shows sufficient spaces based on operating hours and limited overlaps.

- Additional parking spaces would be gained from potential re-striping and/or conversion (last ditch effort).

- City Council's approval of a new zoning ordinance for commercial properties, Centre of Bellaire is within this new zoning area.

**Staff Findings**

Mr. Cox informed the Board that this is an application submitted by MVM Capital Partners, LLC, owner of 5303 Bissonnet St, for a special exception in accordance with the provisions of Section 24-716 of the City of Bellaire Code of Ordinances in order to reduce the required parking count as stated in Section 24-514a of the code to 150 spaces. He explained that MVM Capital Partners purchased the center in 2011, and that there are currently 3 restaurants, a doctor's office, a day spa, a driving school, a home health care service company, and two vacant spaces on site. Mr. Cox stated that additionally, Amegy Bank is located at 5301 Bissonnet and has integrated parking with the center. He informed the Board that the current uses in operation require 133 of the 146 total available spaces, and that adequate parking is available to convert the smallest vacant lease space into

offices, bringing the total required parking to 139. Mr. Cox stated that the applicant is proposing to fill the existing vacancies with an additional restaurant and office space. He informed the Board that there are plans to re-stripe the parking lot, bringing the total number of available spaces to 150. Mr. Cox stated that in this scenario, the center would still be 23 spaces short. In addition, the applicant has also considered creating 9 additional spaces out of existing lease space, which would provide 109 spaces, leaving the center short 9. He explained that a parking analysis was prepared by the applicant's architect, and that the city's consultant engineer, Colby Wright, with Jones and Carter, reviewed the analysis and was in agreement that the center would not have adequate parking. Mr. Wright notes, "If adequate parking is not provided on site, motorists may choose not to visit the businesses on site, or they may seek out alternative parking locations, either on street or in adjacent businesses. Mr. Cox informed the Board that the site is not designed to handle the parking demand requested, and the lack of adequate parking will be materially detrimental or injurious to other property or improvements in the neighborhood. He added that this will subsequently increase the congestion in the public streets. Mr. Cox informed the Board, that based on analysis of the application, the request does not meet the standards for granting a special exception, as outlined in Section 24-718 of the Code of Ordinances. Denial of this request is recommended.

### **Public Comments**

**Charles Beasley**-Mr. Beasley informed the Board that he lives at 6908 Ferris Street, 29 feet from the property in question. He stated that his experience, being there since 2006, has been very mixed. He added that he lives on a very narrow street without curbs, and that overflow from the shopping center ends up parking on his lawn. Mr. Beasley mentioned that he and his neighbors deal with broken sprinkler heads, rutted lawns, and trash on a daily basis. He also added that the daily and nightly activities in the alley behind the center are incredible, with a lot of gathering of the food service people and huge amounts of materials being delivered to the restaurants. Mr. Beasley explained that this shopping center has already been detrimental, and that he can't imagine adding another restaurant to the mix.

**Lynn McBee**-Ms. McBee mentioned that in the sketch there are parking spots shown on the south western edge of the property that are numbered 144-150, and asked if those spots are currently being counted by either the applicant or the city. She added that it is not clear if this map is a representation that the city concurs with or doesn't. She asked the Chairman to raise that question. Ms. McBee stated that it appears as though the type of use that is located within a commercial area determines the requirement for parking. She then asked what the comparison is for a restaurant to an office use on the city's parking formula. Ms. McBee pointed out that the predominance of large scale restaurants that are planned seems to be the driving force on the shortage of parking spaces. She mentioned that citizens who live adjacent to restaurants or food preparation locations suffer unduly, and that it seems to her that the property owner might solve his problem by renting the vacant spaces to something other than high-demand parking uses. She stated that she is pleased that the center has been maintained and is being filled, but that she is much more sensitive to the residents who live next to it. Ms McBee felt that the city needs to protect its residents, first and foremost, rather than promote business. She reiterated that the applicant has an option to consider other types of uses if the special exception is not granted, and that two additional restaurants within this center will simply add to the impact of the center over and beyond the parking shortage.

Ms. McBee opposed the special exception based on the negative impact that it will have on the neighboring residents.

A written comment from Mr. Richard Franke was read into the record.

### **Rebuttal by the Applicant**

**William Mao**-Mr. Mao stated that he appreciated his fellow Bellaire residents who voiced their objections, but pointed out that there is only one additional restaurant that is trying to come in to the center. He then addressed the question regarding the parking spaces on the sketch and explained that those spaces are being counted and have been confirmed by city staff. Mr. Mao added that Ruggles Green, currently awaiting approval, has conservative hours, and that the already existing tea room is only open for lunch.

### **Questions by the Board**

Board Member Bechter asked if the total number of parking spaces that the city is requiring is 173.

Mr. Cox confirmed that 173 spaces is needed for complete build out, including the addition of Ruggles Green and the remaining vacant spaces to be calculated as office.

Board Member Bechter asked for clarification that Mr. Mao currently has 150 spaces.

Mr. Mao explained that he currently has 146, but in re-striping he could get to 150.

Board Member Bechter asked what information the city relied upon to say that it would be materially detrimental to grant this request.

Mr. Cox informed the Board that staff used the site plan and square footage of the buildings and lease spaces in conjunction with the uses to determine how many parking spaces are needed on site, and that Amegy Bank is also included in this calculation because they share parking with the site. He stated that a parking analysis was prepared showing a lack of parking spaces at certain times during the day. Mr. Cox explained that the city's traffic engineer reviewed the analysis and agreed that there would be times that the center would not have adequate parking. He also felt that this would lead to overflow parking in the streets.

Board Member Bechter asked Mr. Mao if he understood that the Board may not grant a special exception if what is being requested is materially detrimental to the residents, if it substantially increases traffic, or if it diminishes property values. She didn't feel that Mr. Mao had overcome the threshold, based on the testimony that was given, for the Board to even consider this application.

Board Member Ligh mentioned that there are three islands with trees located in the parking lot and asked Mr. Mao if he would be turning those into parking spaces.

Mr. Cox and Mr. Mao explained that those islands will remain in place due to the fact that 10% green space has to be maintained.

Mr. Ligh asked if there were any available spaces behind Amegy Bank.

Mr. Cox informed the Board that those spaces are included in the total numbers.

Mr. Ligh mentioned that there seems to be an area behind those spaces and asked if they could be made into parking spots

Mr. Cox pointed out that the space in question is not on Mr. Mao's property.

Vice Chairman Sharp mentioned the diagonal parking spaces numbered 126-143 that are located on the south side of the site plan and asked if those already exist.

Mr. Cox explained that those are already striped and are counted in the total numbers.

Vice Chairman Sharp mentioned the parking spaces numbered 144-150 that are located on the west side of the plan and asked if these are additional spaces.

Mr. Cox informed the Board that these spaces are under building parking that currently exist, and pointed out that the spaces that Mr. Mao is looking to add are hash marked on the site plan.

Vice Chairman Sharp pointed out that different uses require different amounts of parking and asked Mr. Cox if the Board was being asked to consider a special exception for a specific set of leased entities within the shopping center.

Mr. Cox explained that the Board is only being asked to consider granting a special exception for the reduction of 23 parking spaces. He also pointed out that the only way that the center would need more parking than what it currently requires is if one of the companies, that is not a restaurant, moved out and another restaurant wanted to move in. In this instance, Mr. Mao would have to come back before the Board to seek an even greater reduction.

Vice Chairman Sharp mentioned Mr. Mao's shared parking agreement with Amegy Bank and asked what would happen if Amegy sells to a restaurant that would require more spaces.

Mr. Cox informed the Board that there would not be adequate parking available for a restaurant at that location, therefore, the city would not issue permits or a certificate of occupancy without first coming before the Board of Adjustment for a special exception.

Board Member Raval asked if 173 spaces is what would be required with a new restaurant coming into the center.

Mr. Cox explained that 173 spaces is the requirement for the shopping center as is, with the addition of a fourth restaurant and office space build out for vacant spaces. He added that if Mr. Mao proposed to bring another restaurant or retail into those vacant spaces instead of office then it would require an increase in the number of spaces.

Attorney Petrov mentioned that parking for shopping centers is always difficult due to the fact that there are multiple tenants, each with different parking requirements. He added that a turnover in businesses within the shopping center

requires a recalculation of parking based on the new use, and the city is able to control this situation by requiring the owner to come before the Board prior to getting a certificate of occupancy, if the parking requirement is not met.

Chairman Bacile asked Mr. Cox how many parking spaces are required for the center as it exists currently.

Mr. Cox stated that the current requirement is 133 parking spaces, without the addition of Ruggles Green and the other vacant spaces being leased out as office.

Chairman Bacile noted that this only leaves 13 excess spaces.

Mr. Cox confirmed this.

Chairman Bacile asked how many spaces Ruggles Green would require.

Mr. Cox explained that 22 spaces would be required for Ruggles Green, which would still leave them 9 spaces short.

A motion was made by Board Member Raval and seconded by Board Member McGinty to approve the special exception.

**Vote:** the motion failed on a vote of 0-6.  
(Requested by John McDonald, Community Development)

<b>RESULT:</b>	<b>FAILED [0 TO 6]</b>
<b>MOVER:</b>	Amar Raval, Board Member
<b>SECONDER:</b>	Patty McGinty, Board Member
<b>NAYS:</b>	Bacile, McGinty, Raval, Bechter, Ligh, Sharp
<b>ABSENT:</b>	Shah

## 8. GENERAL COMMENTS

**(Limitations: Six (6) minutes per speaker with extensions in two (2) minute increments as approved by a majority vote of the Board Members present).**

**Lynn McBee**-Ms. McBee stated that she has sympathy for people wanting more than what we have, as well as sympathy for developers who try to supply it, but that her real concern is that we want more than we can get. She stated that parking has become a problem due to growth, and that the City of Bellaire will be facing this issue for years to come. She pointed out that the only options are rooftop parking, under building parking, or rebuilding. Ms. McBee informed them that as the Board of Adjustment, they have the opportunity to make recommendations to City Council regarding the parking situation and urged them to do so.

## 9. GENERAL COMMENTS FROM BOARD MEMBERS

Chairman Bacile mentioned that parking has been a grave concern, not only for this Board, but others as well. He agreed that the city needs a solution. Chairman Bacile felt that an increased amount of parking will be needed for the future mixed-use developments that the city could see due to the recent re-zoning.

Board Member Raval pointed out that if the city is being re-zoned for commercial use, the parking formulas also need to be taken into consideration. He stated that he likes the idea of redevelopment, but at this point the city is limited on what it can allow.

Mr. Cox mentioned that the Planning and Zoning Commission recently made a motion to send some new parking numbers to City Council for review, however, those numbers would not have impacted the site in question. He explained that they primarily center on church and school requirements, as well as the addition of some categories that were not previously included in the code.

**10.ANNOUNCEMENTS**

There were no announcements.

**11.ADJOURNMENT**

Motion: a motion was made by Vice Chairman Sharp and seconded by Board Member Bechter to adjourn the regular meeting.

Vote: the motion carried on a unanimous vote of 6-0.

**The meeting adjourned at 8:02 PM.**