



## Legislation Details (With Text)

**File #:** ABZA 12-7    **Version:** 1

**Type:** Appeal-BZA    **Status:** Archived

**In control:** City Council

**Final action:** 2/15/2012

**Title:** Public hearing to consider the appeal of Mark Berhow, for Summit Hill Association; and McClay Alton Real Estate, LLC to a decision of the Board of Zoning Appeals approving a parking variance for seven off-street parking spaces in order for Cupcake Restaurant to obtain a wine and beer license at 949 Grand Avenue.

**Sponsors:** Dave Thune

**Indexes:**

**Code sections:** Sec. 61.702. - Appeals to city council., Sec. 63.207. - Parking requirements by use.

**Attachments:** 1. BZA Resolution, 2. Minutes, 3. Staff report, 4. Extension letters, 5. letters of support (1 of 2), 6. letters of support (2 of 2), 7. letters of objection, 8. Variance application, 9. Dec 12 pics, 10. Dec 13 pics, 11. Applicant's supporting documentation, 12. Site maps, 13. BZA public hearing notice, 14. SHA appeal application, 15. 1.18.12 SHA Appeal Letter.pdf, 16. McClay Alton Appeal Application.pdf, 17. McClay Alton Applicant support docs.pdf, 18. Diekrager email supporting Cupcake.pdf, 19. Diamond email supporting Cupcake.pdf, 20. Campbell email supporting Cupcake.pdf, 21. George email supporting Cupcake.pdf, 22. Kyle email supporting Cupcake.pdf, 23. McGrath email supporting Cupcake.pdf, 24. Ward email supporting Cupcake.pdf, 25. Griffin email supporting Cupcake.pdf, 26. Johnson email supporting Cupcake.pdf, 27. Wefel email supporting SHA appeal.pdf, 28. Community comment.pdf

Date	Ver.	Action By	Action	Result
2/15/2012	1	City Council	Granted	Pass

Public hearing to consider the appeal of Mark Berhow, for Summit Hill Association; and McClay Alton Real Estate, LLC to a decision of the Board of Zoning Appeals approving a parking variance for seven off-street parking spaces in order for Cupcake Restaurant to obtain a wine and beer license at 949 Grand Avenue.

The applicant, Kevin Vanderaa, applied for a parking variance for 7 off-street parking spaces in order to obtain a wine and beer license for the Cupcake Restaurant at 949 Grand Avenue. A public hearing was held on October 31, 2011. Both staff and the Summit Hill Association recommended denial of the variance. The BZA moved to continue the matter for 2 weeks (November 14th) to allow the applicant to prepare a parking study to be reviewed by the Department of Safety and Inspections (DSI). On November 14th, 2011, the BZA laid the matter over two more times to allow the applicant additional time to submit the requested parking study. On December 27, 2011, the BZA approved the requested parking variance subject to the following conditions:

1. The applicant must maintain a lease for the use of 6 parking spaces in the Anderson Cleaners parking lot located at 978 Grand/54 South Chatsworth. The terms of this lease must be substantially similar to the lease presented by the applicant at the public hearing. A copy of the lease in effect must be provided to the Department of Safety and Inspections which reserves the right from time to time to make inquires as to the terms and status of the lease.
2. The spaces in the existing parking lot behind the building at 949 Grand must not be used by employees of the restaurant, restaurant employees must use the Anderson parking.
3. The applicant must obtain a fence permit to install, and maintain, a fence along the west property line of 949 Grand in order to separate its existing parking lot from that of the adjacent property. The fence shall be installed after a site plan review approval by the department of safety and inspections.

4. The applicant must install bike racks in the front and rear of the property no later than June 1, 2012.
5. The applicant must provide signs in the Anderson Cleaner's parking lot to inform the public that customers for Cupcake can park there.

The appellant, Mark Berhow for Summit Hill Association has provided a two page document detailing his grounds for appeal. That document is attached to this file.

Does this issue fall within the 60 day rule? No

If yes, when does the 60 days expire?

Has an extension been granted? Yes

If so, to what date? The applicant waived the statutory requirement for a decision on the application within the 120 day period.

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