

Minutes
Unified Land Management
Board of Appeals
July 26, 2005
4:30 p.m.

Members Present

Gerald Lawson, Chairman
Ray Morris
Gerald Noe
Craig Sims
Roy Pinckney
Ronnie Culbreth
Kyle Atkins

Members Absent

Kerry O'Brien
Jackie Moss

Staff Present

Joan Holliday
Laurie Horton
Albert Lee
Savannah Sabo
(Transcriptionist from Freelance)

1. Call To Order

Gerald Lawson, Chairman, called the meeting to order.

2. Approval of Minutes of June 28, 2005

Craig Sims made a motion to approve the June 28, 2005 minutes. Ray Morris seconded the motion. The vote carried unanimously.

3. Old Business

None

Willow Place – Albert Lee, Land Use Inspector, was sworn in. He presented the findings of fact to the Board:

Mr. Fred Williams is the owner of the property located at 1595 Skylyn Drive,

Spartanburg. Mr. Williams is proposing to construct a retail building with more than one tenant.

Mr. Williams is requesting a variance from the Unified Land Management Ordinance Section 2.02-2 Bufferyards. The Unified Land Management Ordinance calls for a Class 5 bufferyard, where residential adjoins. Mr. Williams is requesting that the Class 5 bufferyard be reduced to a Class 3D, which is a 15' wide strip instead of the 25' wide strip that is required by the Ordinance. He would like to place a 6' tall wooden fence with planting on the outbound side. He is making this request because at the rear of the property is a drainage ditch.

Mr. Williams will be able to meet all other requirements of the Unified Land Management Ordinance.

Mr. Lee presented several photos to the Board, which were entered into the record as Exhibit #1.

Gerald Lawson opened the public hearing.

Lorin F. Williams (Fred) of 1595 Skylyn Drive was sworn in and asked the Board to review the photos and the survey of the building. He requested from the Board a reduction of his bufferyard. He would like to use trees and shrubs as his buffer instead of a wooden fence. Mr. Williams stated that the adjoining property owner in the rear would prefer trees and shrubs rather than a wooden fence because it would be easier to maintain. Mr. Williams stated that he would heavily landscape the front and the back area.

Jerry Noe asked Mr. Williams what was across Willow Drive from this site. Mr. Williams stated that it was Dunbar Dentistry. He stated that most of the area was commercial with the exception of an elderly lady that lived to the rear of the property. Mr. Noe asked Mr. Williams what was keeping him from moving his new building closer to the road. Mr. Williams stated that he did not want to place his building closer to the road because the State has plans to widen Skylyn Drive. It would interfere with his parking.

Mr. Sims asked Mr. Williams if a class 3b buffer would meet his request. A class 3b consist of 8 trees and 24 scrubs per 100 feet in a 15-foot wide strip.

Mr. Williams stated that a class 3b would work. He also stated that he had spoken with the son of the adjoining property and they agreed that vegetation would be planted so that each side could maintain their own area.

There was no one else present to speak for or against the variance.

Gerald Lawson closed the Public Hearing.

Craig Sims made a motion to grant the variance to reduce the buffer from a class 5 to a class 3b. He stated that the request meets the four criteria for granting a variance and it would not be a detriment to the adjoining properties. The State will be taking the front of the property for widening Skylyn Dr. The only residential neighbor is in agreement with the variance and there will be no detriment to the otherwise commercial area. Ronnie Culbreth seconded the motion. The vote carried unanimously.

Anita Kay Towery – Laurie Horton, Land Use Inspector, was sworn in. She presented the findings of fact to the Board:

Ms. Anita Kay Towery is proposing to place a mobile home on the same property as her mother, Mary Shropshire. Ms. Shropshire has signed an acting agent authorization form for her daughter to request this variance.

The property is located on Cartee Drive, a private drive, so it does not have road frontage on a public maintained street to meet the requirements of the Unified Land Management Ordinance. The property is accessed by way of easement.

According to the ULMO, Section 2.02-6 Number of Principal Buildings on a Lot, two residential dwelling units may be established on the same parcel “provided the dimensional requirements on Table 3 are met for both dwellings as if they were established on separate lots. . .”

Ms. Shropshire’s property does not have road frontage and a mobile home is already located on the property. A variance in road frontage will be required in order to meet Table 3. All other requirements of Table 3 can be met.

Anita Kay Towery was sworn in and stated that there was one main road that came into the property and circled around. She stated that all the property was family owned.

Mr. Lawson asked Ms. Towery the acreage of her property. Ms. Towery stated that her mother’s property was three quarters of an acre.

Ray Morris asked Ms. Towery who the other property owners were on Cartee Drive. Ms. Towery stated that it was all family-owned property.

Mr. Sims stated that Ms. Towery would have to get her septic tank approved before she could even place the mobile home on the property. Ms. Horton stated that Ms. Towery was aware that the approval of the septic tank would be required also.

There was no one else present to speak for or against the variance.

Mr. Lawson closed the Public Hearing.

Kyle Atkins made a motion to grant the variance because it met the four criteria for granting a variance, the adjoining property was all family owned, and there would be no detriment to the community. Roy Pinckney seconded the motion. The Board was in agreement that there is no way under the current ordinance that the property could ever be subdivided. The vote carried unanimously.

Tony Powell Commercial Building – Laurie Horton, Land Use Inspector, still under oath, presented the findings of fact to the Board:

Mr. Tony Powell owner of 3283 Reidville Road would like to rebuild a building, due to fire damage, at 3283 Reidville Road. The building was damaged more than 50% and has to be reconstructed, and therefore has to comply with the Unified Land Management Ordinance. Mr. Powell is proposing a speculative retail building with two tenants. According to the ordinance a speculative retail use is classified as a medium intensity use.

Section 2.02-2 Bufferyards (Table 4) requires a medium intensity use adjoining “all other” residential uses to install a class 4 bufferyard. Table 4 allows a bufferyard classification to be reduced when property is located on an arterial street. Reidville Road is classified as an arterial street. The bufferyard on the right side property line adjoins “all other” residential and has been reduced to a class 3 bufferyard. Mr. Powell request the bufferyard requirement be waived on the right property line.

Ray Morris asked what was to the rear of the property. Ms. Horton stated that it was residential property with a house and mobile home to the right of the property.

Gerald Lawson opened the public hearing.

Sonny Justice was sworn in to speak for Mr. Powell. Mr. Powell was present at the

meeting to answer any questions.

Mr. Lawson asked if this was the same building where motorcycles were sold before it burned. Mr. Justice stated it was the same one.

Mr. Justice presented several photos to the Board which were entered into the record as Exhibit #1. The photos were of the adjoining properties. He stated that the reason that they did not want buffers along the right was that the mobile home in the photo was only two feet off the property line.

Mr. Sims stated that most of the surrounding property was commercial and in transition to becoming commercial.

Gerald Lawson closed the Public Hearing.

Ronnie Culbreth made a motion to grant the variance as requested, not to require the buffer yard along the right property line. He stated the request meets the four criteria for granting a variance and it was not a detriment to other adjoining properties. In fact, a buffer would cause a problem for the resident of the mobile home. Craig Sims seconded the motion. The vote carried unanimously.

Cox Moving- Laurie Horton, Land Use Inspector, still under oath, presented the findings of fact to the Board. Ms. Horton presented to the Board a notarized letter from Evelyn Harvey, an adjoining property owner that was entered into the record as Exhibit #1. Ms. Harvey agreed with granting the variance.

Mr. James Cox of Cox Moving Company located at 668 Springfield Road would like to expand his storage area for his business. The storage area will be used to store materials used to move houses.

Mr. Cox is requesting a variance from the Unified Land Management Ordinance, Section 2-02-2, bufferyards. According to the ordinance an outdoor storage of equipment and materials is classified as a high intensity use. Table 4 requires a class 5 bufferyard when high intensity uses adjoin a single-family home and a class 2 for office/institutional; along the left and rear are single-family homes, as well as a church. The parcel to the right is listed as residential vacant, according to the Spartanburg County Assessor's Office. The same buffer would apply as single-family home because of the intent to develop the property as residential.

Mr. Cox is requesting a variance to install a 6-foot chain link fence with 2' barbed wire and a row of evergreen hedge in lieu of a class 5 bufferyard.

Mr. Lawson opened the public hearing.

James Cox, owner of Cox Moving, was sworn in. He stated that it would be safer for the neighborhood to have a chain link fence instead of a berm.

There was no one else present to speak for or against the variance.

Gerald Lawson closed the public hearing.

Ms. Horton stated that there was an allowance for a substitution of a chain link fence in the ordinance. The footage was actually what the Board was dealing with as far as granting the variance. She stated that it would be up to the Board to allow the substitution of the chain link fence.

Craig Sims made a motion to grant the variance as requested. He stated that it met the four criteria and helped with a safety issue. Roy Pinckney seconded the motion. The vote carried unanimously.

Mr. Morris asked if the approval of this variance would interfere with the wetlands in the area. Ms. Horton stated that the grading permit had been issued and that County Engineering had addressed any issues.

Bruce Group Auction – Laurie Horton, Land Use Inspector, still under oath, presented the findings of fact to the Board:

Mr. Gary Bruce owner of Bruce Group Auctions is proposing to develop property on Highway 101 for the purpose of holding auctions for RV/Marine/Powersport sales. The property is surrounded by commercial uses except for one rental house to the right. The commercial property includes an auto auction on one side and a trucking company on the other. The property is on an arterial road that is transitioning to commercial.

The Unified Land Management Ordinance, Section 3.07, Auction Barns and Auction Houses requires Mr. Bruce to be 500 feet away from an individual residential structure # 2, no outside speakers or audible auction activities shall be allowed for any such use # 3, and any such use is classified as High Intensity Commercial for establishment of required buffer yards # 10.

Mr. Bruce has three variance requests; (1) the 500 feet distance from an individual structure (2) to allow outside speaker/audible auction activity (3) a reduction in bufferyard requirements from a class 4 to a combination of a class 3b and the berm that also serves as a dam for the stormwater retention pond. Staff has reduced the requirement by one class since the site is on an arterial in a transitional area.

Gerald Lawson asked if staff had a recommendation for the variance.

Joan Holliday, Planning Program Supervisor, was sworn in and stated that the staff would not oppose the granting of the variance. She stated that the area was transitioning to commercial and that most of the residential properties in the area were for sale as commercial. She also stated that there would be a buffer between the site and the residential rental property next door. The site is almost totally surrounded by like uses.

Mr. Lawson opened the public hearing.

Gary F. Bruce was sworn in and stated that this was a family owned business that had been in operation for 65 years. He stated that this was an area that was predominately commercial, industrial, with wetlands to the rear of the property. There was also a home occupational business across the street and other homes that were abandoned. The rental house next door belonged to the same family that was attempting to sell the property two lots down Highway 101 as commercial. Mr. Bruce stated that the audible noise aspect of the auction should have no detrimental effect on any surrounding properties. He stated that there was already noise coming from the newly revised four-lane highway and BMW trucking traffic. The surrounding properties include an auto auction on one side and a trucking company on the other, both with outside speakers. Benore Trucking, to the right of the proposed auction, also has outside speakers.

Mr. Bruce presented to the Board a map with numbered pictures showing the existing buffer of trees on the property. The map was entered into the record as Exhibit #1. The map included the auto auction and the trucking company.

Mr. Sims asked Mr. Bruce what the normal hours of operation were. Mr. Bruce stated that the auction barn would operate during daylight hours only, approximately three times a month. Mr. Bruce stated that Bruce Auction merchandise would consist of government consignments, repossessions from financial institutions, and liquidations from large companies.

Phillip W. Yeargin, adjoining property owner, was sworn in and stated that he was against the variance. He stated that he had received several complaints from his renter on the noise and lights from the existing auto auction. A new business with added noise and lights would make it difficult to rent in the future.

Mr. Sims stated that the properties in the area were selling for commercial rates. Mr. Yeargin agreed with Mr. Sims that the residential properties in the area were selling for commercial uses. Mr. Yeargin also told the Board that there was a two-story home down the road. Ms. Horton presented to the Board a photo of the two-story home with the "For Sale" sign in the yard which indicated that it was for sale as a commercial property. The photograph was entered into the record as Exhibit #2.

Mr. Lawson closed the public hearing. He asked if Highway 101 is a four-lane highway. Ms. Horton stated that it is.

Mr. Atkins stated that the proposed auction barn would not be as intense as the auto auction. He also stated that as far as the neighbor's complaints, the auto auction normally operated three times a week. The new auction would only operate a couple of times a month. The Board discussed the surrounding properties, both residential and commercial.

Craig Sims made a motion to grant the variance as requested. He realized there was some pressures with the residential properties remaining in an area transitioning to commercial. He also agreed with Mr. Atkins's statement that this Auction would be less intense than auto auction. He stated that the request meets the four criteria for granting a variance. Kyle Atkins seconded the motion. The vote was four to two in favor of granting the variance. The Board members that voted for granting the variance were Craig Sims, Kyle Atkins, Ronnie Culbreth and Ray Morris. The Board members against the granting of the variance were Jerry Noe and Roy Pinckney.

After the vote, Roy Pinckney left the meeting.

Cingular Wireless - Laurie Horton, Land Use Inspector, still under oath, presented the findings of fact to the Board:

Cingular Wireless has proposed a 145-foot monopole cellular communication tower at the intersection of Blackwell Road and the CSX railroad track on 5.55 acres owned by Keith John Metz. The property is currently vacant, but

listed with the Assessor as farm improved. There are no subdivisions of 25 lots or more within 1000 feet, nor are there 50 or more dwellings.

Cingular is requesting a variance from the Unified Land Management Ordinance, Section 3-18-1.2, Setbacks from Property Lines and Certain Residential Uses. The required setback from all property lines for a cell tower (locating in an agricultural or residential area) is the height of the tower minus twenty feet. Cingular is requesting a 65-foot variance.

Cingular will meet all other requirements of the ULMO.

Gerald Lawson asked staff for a recommendation. Ms. Horton stated that staff would not oppose the granting of the variance.

Jonathan Yates, attorney representing Cingular Wireless, was present to speak. He stated that Roger Tieson, Director of Radio Frequency who designed the site, was present to answer any questions at the meeting. Mr. Yates stated that Cingular Wireless was having coverage problems and poor voice quality in the area. They have been dropping a number of calls along Highway 290. The problem has been exacerbated with the construction of the J. Verne Smith Parkway. This would be a capacity site where they would be using the monopole-style cell tower. The height would be 145 feet. Mr. Yates explained that a monopole style cell tower would be similar to the pylon signs used in front of Hardees or McDonalds. The intention of Cingular Wireless was to find a site where they could get coverage, as well as to use the proposed low design height. Mr. Yates stated they chose this particular location on the property because the property has a significant drop in elevation a little further back. If the cell tower were placed somewhere else on the property, Mr. Tieson would have to add 78 to 80 feet to height of the monopole. Mr. Metz's property has a unique shape. The site where Cingular has chosen to locate on Blackwell Road has a 90 degree curve in the road. CSX Railroad crosses the back of his property and has a 100-foot right of way. The J. Verne Smith Parkway was built right through the middle of the property. Mr., Metz and Cingular Wireless were left with an irregular piece of property to work with.

Mr. Yates stated further that the cell tower has already met approval from FAA, the Greenville Spartanburg Airport, and the U.S. Department of Interior (historical and archeological sites). The variance would allow Cingular to improve the coverage along Highway 290, S.C. 80, and Blackwell Road up to Wade Hampton Boulevard. If the variance were not granted, they would have to change the whole design of the cell tower and increase the tower height. In closing, Mr. Yates stated again that this is the only location on the property that offered the elevation they needed to achieve

the goal of getting better coverage. This is an extraordinary and exceptional piece of property. Mr. Yates presented his graphics for the record as Exhibit A.

There was no one else present to speak against the variance.

Mr. Lawson closed the Public Hearing.

Kyle Atkins made a motion, based on the findings of fact from staff and the information provided on the unusually-shaped piece of property, to grant the variance as requested. He stated that the request meets the four criteria for granting a variance. Jerry Noe seconded the motion. The vote carried unanimously.

4. Adjourn

There being no other business, Craig Sims made a motion to adjourn and Gerald Noe seconded the motion. The vote carried unanimously.

The meeting adjourned at 5:42 p.m.