

Minutes
Unified Land Management
Board of Appeals
September 27, 2005
4:30 p.m.

Members Present

Gerald Lawson, Chairman
Ray Morris
Craig Sims
Roy Pinckney
Kerry O'Brien

Members Absent

Kyle Atkins
Gerald Noe
Ronnie Culbreth
Jackie Moss

Staff Present

Emory Price
Laurie Horton
Albert Lee
Edwin Haskell
Savannah Sabo
(Transcriptionist from Freelance)
Lee Lawson

1. Call To Order

Gerald Lawson, Chairman, called the meeting to order.

2. Approval of Minutes of August 23, 2005

Roy Pinckney made a motion to approve the August 23, 2005 minutes. Ray Morris seconded the motion. The vote carried unanimously.

3. Old Business

None

3. Randy McGarity – Laurie Horton, Land Use Inspector, was sworn in. She presented the findings of fact to the Board:

Mr. Randy McGarity is the owner of the property located at 827 West

Blackstock Road, Arcadia. He is requesting a variance from the Unified Land Management Ordinance Section 2-02.2 Buffer yards.

Mr. McGarity is proposing to build a multiple tenant building. A multiple tenant building with more than 2 tenants is classified as High Intensity. There is a house located to the left the property. Mr. McGarity is requesting a reduction from a class 5c buffer to a class 1d with the fence being 8 feet in height instead of 6 feet.

Gerald Lawson opened the public hearing.

Randy O. McGarity of 827 West Blackstock Road was sworn in. He stated that they had contacted as many of the adjoining property owners as they could to let them know of their future plans to develop this particular piece of property. At this time, there is currently a restaurant on one side and a church across the street. They feel that by adding another commercial business they could stimulate growth to this area. Mr. McGarity also stated that by reducing the buffer yard they could add an entrance to access the property in the rear for possible residential as well as give a nice aesthetic look to the area.

Ms. Horton had a letter from an adjoining neighbor on the side with the buffer who was in agreement with the variance.

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

Gerald Lawson closed the public hearing.

The Board was in agreement that Mr. McGarity wanted to place an 8-foot wooden fence instead of a 8-foot masonry wall.

Craig Sims made a motion to grant the variance to reduce the buffer from a class 5c to a class 1d with an 8' wooden fence. The Board concluded the request met the four criteria. Kerry O'Brien seconded the motion. The vote carried unanimously. **Fast Fare** – Laurie Horton, Land Use Inspector, still under oath, was sworn in. She presented the findings of fact to the Board:

Patrick O'Dell, representative of CB Mart, owner of the property located at 4091 Moore Duncan Highway, Moore is proposing to expand the Fast Fare by adding a 21' X 4' cooler to the rear. He is requesting a variance from the Unified Land Management Ordinance Section 2.02-1 Dimensional Standards Table 3 rear setbacks and also Section 2.02-2 Buffer yards.

Mr. O'Dell is requesting to reduce the setback on the rear from 20 feet to 5 feet. He is requesting a 15-foot variance.

The Unified Land Management Ordinance requires a Class 5c buffer along the rear property line between proposed site, high intensity and a Single-Family Home. Mr. O'Dell is requesting to reduce this buffer to a Class 1c buffer, which will be a five-foot wide strip.

Mr. Lawson indicated that the existing structure was already in the twenty-foot setback. The applicant is asking to place shrubs instead of a wall.

Mr. Lawson opened the public hearing.

Patrick O'Dell, representative of C B Mart, was sworn in. He would like to replace the existing equipment in the cold vault storage area, which would require knocking out the back wall approximately 4-feet. They are also remodeling other areas of the store as well. Mr. O'Dell stated that they plan to remodel the Fast Fare store similar to the layout of the Blacksburg Hickory Point Store.

Ray Morris asked Mr. O'Dell if the proposed 80' x 8' block was there. Mr. O'Dell stated no and they would prefer to place greenery there instead of the block wall. He also stated that the rear property owners would prefer greenery instead of a block wall.

Craig Sims asked Mr. O'Dell if he had a letter from the adjoining property owners. Mr. O'Dell stated no, although his operations manager indicated to him that they had been in contact with the adjoining property owners.

Mr. Lawson closed the public hearing.

Craig Sims asked Ms. Horton if there was already anything out there for a buffer. Ms. Horton stated that she believed that there was a wooden fence. Mr. O'Dell indicated that the fence was to the side of the building.

Roy Pinckney made a motion to grant the 15-feet for the rear setback and reduce the buffer yard from a 5c to a 1c. Kerry O'Brien seconded the motion. The vote carried unanimously.

Blalock Boat & Sales – Albert Lee, Land Use Inspector, was sworn in. He presented the findings of fact to the Board and 5 photos of the property, which were

entered into the record as Exhibit #3.

Mr. David Ponder is proposing to place a Boat and Sales business at 4620 Chesnee Highway, Mayo, S.C. According to the Unified Land Management Ordinance, this is classified as a high intensity use and would call for a Class 5 Buffer. In the past this property has been used for residential and commercial. Mr. Turner, the previous owner, used this property for his home and as well as a car lot.

Mr. Ponder is requesting a variance from the Unified Land Management Ordinance Sections 2.02-2 Buffer Yards and 2.02-1 Dimensional Standards Table 3 side set backs. Mr. Ponder is requesting to use the existing trees and shrubs around the property lines. He is willing to place a wooden privacy fence where needed. The request would be from a Class 5 to a Class 1d.

There is an existing garage on the right side property line, which Mr. Ponder plans to use as part of his business. The garage is approximately 6 feet off the property line. The Ordinance states that the side setback must be 15 feet. He is, therefore, also requesting a 9-foot variance on the right side setback.

Staff did have a recommendation that Mr. Ponder place the wooden fence in the areas needed.

Gerald Lawson opened the public hearing.

Mr. David Ponder of 4620 Chesnee Highway was sworn in. Mr. Ponder presented to the Board two photos of the property entered into the record as Exhibit #4. The photos show a two-story home and a building. Mr. Ponder stated that he planned to make this a commercial lot for a Boat shop and Truck Sales.

Mr. Lawson asked Mr. Ponder if he intended on leaving the two buildings on the property. Mr. Ponder stated yes and all the buildings could be utilized. He intends to use the 28x48 building as a shop.

Mr. Ponder stated that at one time this was commercial property. He is willing to work with Mr. Bishop, adjoining property owner to the right, on the buffer. He is also willing to work with the other adjoining property owners if the buffers are needed.

Mr. Albert Bishop, adjoining property owner, was sworn in. He presented to the Board several photos entered into the record as Exhibit #1 and a Home Depot Ad,

Exhibit #2, of a vinyl fence. He would like Mr. Ponder to place a vinyl fence as his buffer. Mr. Bishop would prefer this particular type of fence because it would be easier to maintain.

Mr. Lee stated that the garage building was approximately 60-feet long and would become part of the buffer and was only 6-feet off the property line.

Mr. Randy Bishop of 151 Thrift Road was sworn in. He stated that Albert Bishop was his father and that he owned the property to the rear of Mr. Ponders property. Mr. Bishop showed the Board a diagram of the property and the adjoining property. He stated that there was a good bit of under growth and brush along his property line. He stated that he had a horse and a pool to the rear of the property and would like a fence to buffer against the rear of the property. Mr. Bishop would prefer an eight-foot wooden fence.

Mr. O'Brien asked was there any trees already on the property line. Mr. Bishop stated no just some under growth and bushes.

Mr. Lawson called Mr. Ponder back up to the podium. Mr. Lawson asked if he would be willing to place an eight-foot vinyl fence along the entire property line. Mr. Ponder stated he would be willing to put up the fence that Albert Bishop had requested along the entire property line. He stated that he understood he had to buffer against Albert Bishop's property. He restated he would be willing to place the vinyl fence around the property.

Mr. Lawson stated that the topography was flat and a 6-foot wooden fence would buffer against the adjoining property. Mr. Lee stated that this particular vinyl fence only comes in 6 x 6.

Gerald Lawson closed public hearing.

Mr. Lawson stated that there was an agreement between the neighbors to install a 6-foot vinyl fence. Craig Sims stated that Mr. Ponder only needed the fence from the road to the garage and from the garage to the property line.

Ray Morris made a motion to approve the 6-foot vinyl fence along the two Bishops properties and the 9-foot variance for the existing garage on the right side setback. Craig Sims seconded the motion. The vote carried unanimously.

Symposium Café - Laurie Horton, Land Use Inspector, still under oath, was sworn

in. She presented the findings of fact to the Board:

David E. Langley, with Langley & Associates Architects, LLC, is representing Symposium Café in requesting a variance from the Unified Land Management Ordinance, Section 2.02-2, Table 4 Bufferyard Requirements. The site plan was reviewed and the development permit issued based on the Table 4 Bufferyard requirements being met. Once the DP was issued, the building permit was issued. The bufferyard on the right site was not installed according to the requirements, a berm and 29 Leyland Cypress. The building is complete and a temporary certificate of occupancy has been issued so that this matter would not delay their opening.

According to Table 4, a Class 4d bufferyard is required along the right property line. Table 4 allows a reduction in the bufferyard by one class when the neighboring existing residential land use fronts on an arterial street. Mr. Langley is requesting a variance to further reduce the bufferyard due to the fact that the berm was not installed. Instead a swale and a combination of fifteen trees and thirteen shrubs have been installed along the left property line, which is approximately 300 feet in length. This is not a class in the ordinance. The width for the class 4d is met, but the number of plantings must be increased to meet the ordinance.

Staff did not have any recommendations for the Board.

Emory Price stated that this site was too small for the proposed use and staff allowed an MAI appraiser to determine if the adjacent properties were being marketed for commercial use. After the appraiser completed this assessment staff waived a buffer on one the left side. The issue is staff thought that the architect and owners of property were in agreement of the written terms. When it came time for the final certificate of occupancy to be issued, the parties involved did not wish to complete the buffer as originally agreed upon. This is basically an appeal of staff or an appeal of a buffer. Staff was not told at any point that the drainage that SCDOT required made it impossible to meet the buffer. Mr. Price stated that they might have reconsidered if they had known about this. He stated that Symposium has come before the Board of Appeals because staff does not have the authority to waive buffers that were agreed upon but the Board does.

Ms. Horton presented to the Board a site plan and indicated where the drainage ditch was located as well as the existing trees and shrubs. Ms. Horton stated that the property to the rear was at a higher elevation than the rest of the property.

Gerald Lawson opened the public hearing.

Mr. David Langley, representative of Symposium Café, was sworn in. Mr. Langley presented to the Board 11 photos, which were entered into the record as Exhibit #1. The photos were of the adjoining properties and the swale along the right property line. He stated that SCDOT informed their civil engineer of a new policy that no site water could be discharged into the highway storm system. This required the construction of a storm water retention pond. The property was sloped higher to the front of the property making it difficult to plant the agreed upon buffer. Mr. Langley stated that if a berm were built the water from the site would be discharged onto the adjoining neighbors property. This would cause a liability issue for Symposium Café's owner. The building would also have to be shifted to the left, giving limited access to the dumpsters and service trucks. The wall of the existing Symposium building was left blank to serve as a screen for that portion of the property. The SCDOT requirement changed after staff approved the landscape buffer plan. The landscaper for Symposium Café did not bring it to the architects attention that he could not fit the required landscaping due to the way the grading had to be adjusted. It was then brought to their attention by staff that they did not have the required number of trees required by the Ordinance.

Janice Hollis of 111 Lyman Road was sworn in. She is an adjoining property owner although she does not reside in the home. She stated that the old white picket fence to the back of her rental property was the old fence that Mr. Gillespie had put up. Ms. Horton asked how close her house was from the property line. She stated it was close.

The Board asked staff if it would be ok if Symposium took the low growing shrubs and replaced them with Leland Cypress trees down the property line to give a buffer. Staff was ok with this.

Shirley Ann Lay of 111 Hidden Ridge Drive was sworn in. She is an adjoining property owner. She is also requesting for Leland Cypress to be placed between her property and Symposium Café. The house is vacant at this time and she is not sure what she will do with the house in the future.

Gerald Lawson closed the Public Hearing.

Craig Sims made a motion to change the existing plantings to Leland Cypress all the way down the property line, and that Mr. Langley was in agreement to make these changes. Roy Pinckney seconded the motion. The variance was not granted

as requested and the Board voted to allow for substitution. The vote carried unanimously.

Ashworth Mini Warehouse - Laurie Horton, Land Use Inspector, still under oath, was sworn in. She presented the findings of fact to the Board:

Mr. Robert Ashworth is proposing to build two mini warehouse storage buildings. Mr. Ashworth is requesting a variance from the Unified Land Management Ordinance, Section 2.02 Dimensional Standards, Table 3 Setbacks and Table 4 Bufferyard Requirements.

The property is located at the corner of Brookshire Road and Cotton Road, Greer. Brookshire road is classified as a collector road, which requires a 40-foot set back. Cotton Road is considered a minor street, which requires a 30-foot setback. The rear setback requirement is 20 feet. Mr. Ashworth would like to build the building 45 foot from the center of Brookshire Road, which is a 20-foot variance on the street set back, 37 feet from the center of Cotton Road, which is an 18 foot variance and 15 feet from the rear property line, which is a 5-foot variance.

The Ordinance classifies mini warehouses as high intensity commercial, which requires a class 5Aa bufferyard when adjoining a single-family home, left, rear and along Cotton Road. Mr. Ashworth is asking for a variance to reduce the bufferyard from a class 5Aa to a class 3a along the left and rear and no buffer along Cotton Road.

Gerald Lawson stated that basically they are asking for five variances, three set backs and two buffers.

Staff did not have any recommendations.

Mr. Robert Ashworth, property owner, was sworn in. He presented to the Board a packet of photos and information about the surrounding area as Exhibit #1. He stated that he wanted to build a building that would be totally enclosed with all the storage inside the building. There would be a total of 22 units. This property was adjacent to the Gateway Industrial Park, which was an 850-acre industrial park. This property does fall in the Airport Environs area. Mr. Ashworth stated that with this property located at the corner of Cotton Road and with all the setbacks he needed to comply with, he would only be left with one small building right in the middle. He stated that this whole area was being marketed for industrial and commercial use.

Emory Price stated that for clarification the Airport Environs statute and Spartanburg County Unified Land Management Ordinance apply to the Ashworth Mini Warehouse.

There was no one present there to speak for or against.

Gerald Lawson closed the public hearing.

The Board was in discussion about the 18-foot variance request off Cotton Road. Gerald Lawson stated that his building was only 30 feet from the edge of the pavement and that Mr. Ashworth needs to be aware that they could widen Cotton Road up to edge of his building.

Emory Price asked Mr. Ashworth how far from the edge of the pavement was the proposed structure from Cotton Road. Mr. Ashworth stated that it was approximately 20 feet. The Board members also asked Mr. Ashworth if these would be pull through units or would he be backing in. Mr. Ashworth stated that the doors would be facing to the inside of the property; no doors would be facing Cotton Road. Ms. Horton stated the existing chain link fence on the property would remain.

Ms. Horton stated that for the record this area would have to become commercial if the existing homes were torn down or removed off the property. She stated that no other homes would be allowed back on the property.

Craig Sims made a motion to grant the variances as requested. Kerry O'Brien seconded the motion. The Board concluded that all the surrounding properties were commercial. The fact that they had to comply with the Airport Environs Ordinance and the Spartanburg County Unified Land Management Ordinance made this a unique piece of property. The vote carried unanimously.

Kevin McLane –Albert Lee, Land Use Inspector, still under oath, was sworn in. He presented the findings of fact to the Board:

Mr. Kevin McLane is seeking a variance from the Unified Land Management Ordinance; Section 2.02-1 Dimensional Standards Table 3, Minimum Lot Frontage. The lot is located at 152 Thelma Drive, Spartanburg. Thelma Drive is a county-maintained road.

Mr. McLane already has a home on this parcel. He is proposing to place

second residence (mobile home) on the same parcel. There was a mobile home on this parcel, but it was removed some time ago. The hook-ups are still there (septic and power). This parcel is 0.29 of an acre and has only 66.99 feet of road frontage.

The Unified Land Management Ordinance Section 2.02-6 Number of Principal Buildings on a lot states, "Table 3 shall be met for both dwellings as if they are established on separate lots". Mr. McLane will not be able to meet the amount of frontage required (50 feet for a regular lot or 25 feet for an approvable flag lot) and, thus, is requesting this variance.

The Board asked Mr. Lee was this septic or sewer because the finding of facts indicated septic. Albert Lee stated that it was sewer. Craig Sims stated that it should be sewer with only .029 of an acre. Mr. Lee stated that this was located behind the old Powell Plant.

The Board also questioned how much road frontage Mr. McLane needed. Mr. Lee stated 13 feet.

Kevin McLane of 152 Thelma Drive was sworn in. He stated that this was sewer. Mr. Lawson asked how long had it been since the last mobile home was on the property. Mr. McLane stated that he thought it was pulled off the property in 1997. Mr. Lawson also asked who would be residing in the other mobile home on the property. Mr. McLane stated his mother would be living in the mobile home.

Joel Higgins of 110 Skyuka Circle was sworn in. He owns property on Thelma Drive and on Forest Mill. He is in the process of selling these two homes and would be opposed to another mobile home moving onto this property.

The Board asked Mr. Higgins if these two homes were on property that was adjoined to or adjacent to Kevin McLane's property. Mr. Higgins stated that his property adjoined to the back part of Kevin Mclane's property. The Board asked Mr. Higgins to show them on the site plan where his two properties were.

Albert stated that he had two letters from adjoining neighbors stating that they were in favor of the variance. This was entered into the record as Exhibit #1 and Exhibit #2. Exhibit #1 was from Mr. Weaver on 158 Thelma Drive, and Exhibit #2 was from Elizabeth Rabago on 142 Thelma Drive.

Debra Perry of 51 Forest Mill Street was sworn in. She stated that she was in favor

of the variance. She also stated that Mr. McLane had a privacy fence completely surrounding the existing mobile home. The property was well maintained. A mobile home could not be seen from the street. This is an old mill village with several mobile homes in the area.

Danny Saunders of 152 Thelma Drive was sworn in. Mr. Saunders is co owner of the home with Kevin McLane. He stated that the vacant home to the back of their property had not been properly maintained. The fence had been put up to buffer their mobile home from this overgrown piece of property.

Mr. Lawson asked staff if they had a recommendation. Mr. Price stated the mobile home placed on that property would have to meet the yard dimensional requirements.

Katherine Weaver, adjoining property owner, was sworn in. She stated that Mr. Higgins had never resided in this home and the home had been vacant for approximately 12 to 15 years. She was in favor of the variance.

Gerald Lawson closed the public hearing.

Ray Morris made a motion to approve the variance with the stipulation that the mobile home purchased fit the dimensional requirements of the lot. Craig Sims seconded the motion. The vote carried unanimously.

Turner Trailer & Tire Services - Albert Lee, Land Use Inspector, still under oath, was sworn in. He presented the findings of fact to the Board:

Mr. Mark Southerland, who is acting on behalf of the owner, is proposing to construct an addition to an existing building.

Mr. Southerland is requesting a variance from the Unified Land Management Ordinance Article 2 Section 2.02-1 Dimensional Standards Table 3, Side Setbacks. The Ordinance states that the side setbacks for commercial use must be 15 feet. There is an existing workshop on this property, and they would like to construct an addition to the rear of this building. In constructing the addition to be in line with the existing building on the right side, the addition will encroach into the side setback by 2 feet and 9 inches at the rear corner. Mr. Southerland is requesting a variance to reduce the setback to 12 feet and 3 inches, a variance of 2 feet and 9 inches.

Mr. Southerland will be able to meet all other requirement of the Unified Land Management Ordinance.

Albert Lee stated that Mr. Southerland was present at the meeting as the property owners acting agent to answer any questions. He also had an acting agent form entered into the record as Exhibit # 1.

Mark Southerland, authorized agent and architect of record, was sworn in. In the planning of the building they would have to work with the addition to a dept of 70 feet. They would need to be able to back tractor-trailers in with the doors to the front of the property. Also to the left rear of the building they would have dock doors that would be backed into as well. They needed the turning radius to get the tractor-trailers in and out of the property. They want to include the existing exterior slab, which is 5000 lbs and 6 inch concrete. They need this extra space to allow plenty of room to work around tractor-trailers in doors. The existing concrete pad is 2' over the side setback line and shifting the building would encroach on the rear setback line.

Gerald Lawson closed the public hearing.

Kerry O'Brien made a motion to grant the variance as is to reduce the right set back to 12 feet 3 inches. Craig Sims seconded the motion. The vote carried unanimously.

Vitaliy Moroz - Albert Lee, Land Use Inspector, still under oath, was sworn in. He presented the findings of fact to the Board:

Mr. Vitaliy Moroz is seeking a variance from the Unified Land Management Ordinance, Section 2.02-2 Buffer Yards. The lot is located at 1475 Old Mill Road, Campobello, S.C. This parcel has always been commercial, but has been vacant for over a year.

Mr. Moroz is proposing to reopen the building for truck storage and repair. This would be a high intensity use and calls for a Class 5 Buffer. When the building was first constructed, a Class 1 buffer was placed on the left side. A mobile home has been placed at the rear on the neighboring property since that time triggering the need to buffer against a residential use.

Mr. Moroz is requesting that the existing buffer on the left side of the property be used and upgraded by adding a wooden privacy fence. He wishes to place some plantings at the rear property line reducing the rear buffer to a class not in the Ordinance.

Albert Lee presented to the Board a photo, which was entered into the record as Exhibit #1.

Vitaliy Moroz, representing the buyer of the property, was sworn in. Mr. Moroz stated that when they first looked at the property there was not a mobile home to the rear of the property, now there is. He stated that if the variance were not granted then the building would probably remain vacant. He stated that building would only be good for high intensity use and did not foresee a doctor's office in this location. Mr. Moroz spoke with three property owners in the area and they were ok with the variance request. Several of the property owners stated that they would prefer Cypress trees as a buffer instead of a wooden fence. They expressed concern that a wooden fence would fall down after several years.

Mr. Lawson asked for staff recommendation. Staff did not have any recommendations at this time. Mr. Price did state that this was an existing building with a history of non-residential use.

Mary Hawkins, homeowner across the street from the new proposed truck storage and repair, was sworn in. She stated that no one had asked her about the variance. She stated at one time this building was used as a small electric shop with very little traffic. She stated concern with the truck traffic that would be pulling in and out of the driveway, possibly coming on her property. She also was concerned with the fact that a buffer would not be placed along the road. Mr. Lawson stated that they were not required to place a buffer along the road, only to the sides and rear of the property. Mr. Lee explained that this was a state collector road and they were not required in the ordinance to buffer the front of the property. Mr. Lee also stated that there were some existing trees to the front of the property, although some had died out.

Mr. Price stated that sometimes the Planning Commission would impose a condition based on facts learned during the hearing and a vegetative buffer across the front would not be unusual. Mr. Lee stated that by placing trees to the front of the property would cause a visibility problem pulling in and out of the property.

Mr. Greg Googer, with Caldwell Banker, was sworn in. He stated that Caldwell Banker was the company representing the current owner of the building. They have several buildings in Spartanburg that are unoccupied due to the decline of manufacturing. Mr. Googer stated that the potential buyer had good intentions for this building.

Gerald Lawson asked Mr. Moroz to come down to the front and show the Board on the site plan where he intended to place the wooden fence. The Board also asked Mr. Moroz if he would be willing to place a buffer to the front of the property. Mr. Moroz stated he would be concerned with the trees affecting the visibility of trucks pulling in and out of the property.

Gerald Lawson asked how many square feet was the building? Mr. Moroz stated 7000 square feet.

Gerald Lawson closed the public hearing.

Ray Morris made a motion to approve the variance as requested. Roy Pinckney seconded. They will place a fence on the left property line and buffer the rear with Leland Cypress Trees.

4. Adjourn

There being no other business, Craig Sims made a motion to adjourn Kerry O'Brien seconded the motion. The vote carried unanimously.

The meeting adjourned at 6:12 p.m.