

**MINUTES**  
**Unified Land Management**  
**Board of Appeals**  
**November 22, 2005**  
**4:30 p.m.**

**Members Present:** Gerald Lawson, Chairman  
Ray Morris  
Craig Sims  
Ronnie Culbreth  
Kerry O'Brien  
Jackie Moss  
Gerald Noe

**Absent:** Kyle Atkins  
Roy Pinckney

**Staff Present:** Emory Price  
Edwin Haskell  
Laurie Horton  
Albert Lee  
Lee Lawson  
Savannah Sabo  
Freelance Reporting Services, Transcriptionist

**1. Call to Order**

Gerald Lawson, Chairman, called the meeting to order.

**2. Approval of Minutes of November 22, 2005**

Craig Sims made a motion to approve the November 22, 2005 minutes. Jackie Moss seconded the motion. The vote carried unanimously.

### 3. **Old Business**

None

### 4. **Don Willis** – Albert Lee, Land Use Inspector, was sworn in. He presented the findings of fact to the Board:

Don Willis is the owner of the property located at 3087 E. Main Street Extension, Spartanburg. Mr. Willis recently demolished a nonconforming building (rear setback) that sat on this parcel and proposes to construct a retail shop (scrap book retail) in its place. He is requesting a variance from the Unified Land Management Ordinance, Section 2.02-1, Dimensional Standards, Table 3, rear and front setbacks.

Mr. Willis is requesting to reduce the setback on the rear of property from 20 feet to 10 feet, a 10-foot variance. He is also requesting to reduce the setback on the front from 50 feet to 45 feet, a 5-foot variance.

The Unified Land Management Ordinance requires a Class 4 buffer along the rear property line. Mr. Willis is voluntarily installing an eight-foot cinderblock wall (within a five foot strip) increasing this buffer to a Class 5C.

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

Staff had no recommendations. Ray Morris asked where the parking would be. Mr. Lee stated that parking would be to the left of the building.

Gerald Lawson opened the public hearing.

Don Willis, property owner, was sworn in. He stated that he had demolished an old building that was falling in and planned to construct a new building in its place.

There was no one present for or against the variance.

Gerald Lawson closed the public hearing.

Mr. Morris asked if this was one lot. Mr. Lee stated that Mr. Willis owned the two lots on the left side of the proposed site. Mr. Willis currently occupies the apartment to the left. Mr. Lee stated that Mr. Willis had demolished the old building and graded 4 ½ feet off the back side of the property. A wall would be placed to the backside with stucco on

both sides. A standard buffer yard would be placed along the right property line. The rear bufferyard would be a masonry wall. The wall would go across both lots. Mr. Lee also stated that Mr. Willis planned to construct a building to be used as a scrapbook store.

Craig Sims stated that Mr. Willis was getting rid of an eye sore by placing a masonry block wall up across the backside of the property.

Jackie Moss made a motion to grant the variance to reduce the rear set back from 20 feet to 10 feet and to reduce the front set back from 5 feet to 45 feet. Craig Sims seconded the motion. The motion was four to two in favor of granting the variance. The Board members in favor of the variance were Ronnie Culbreth, Craig Sims, Jackie Moss, and Kerry O'Brien. The Board members against the variance were Ray Morris and Gerald Noe.

**Fast Stop** – Laurie Horton, Land Use Inspector, was sworn in. She presented the findings of fact to the Board:

Ravinder and Sukhd Mander, owners of the Fast Stop located at 11711 Asheville Highway, are proposing to construct a new building on this site. The new building will replace all of the existing buildings on the property. Three roads surround the property: Jarvis Street--a minor street with a 30-foot setback; Clark Road--a collector street with a 40-foot setback; and Asheville Highway-- an arterial street with a 50-foot setback. The Unified Land Management Ordinance requires property to meet the front yard setbacks on all three roads.

The Manders propose to place the new building 14.5' from Jarvis Street road right-of-way on the east corner, a 15.5' variance and 19' 1.5" from the Jarvis Street road right-of-way on the west corner, a 10' 8.5" variance. They are requesting a variance from the Unified Land Management Ordinance, Section 2.02-1, Dimensional Standards, Table 3, front setbacks.

Gerald Lawson opened the public hearing.

Staff had no recommendation.

Ravinder Mander, owner of the Fast Stop, was sworn in. He stated that they owned two properties and would like to combine them together. One property has an old car wash to be demolished and the other property is a corner lot with a convenience store and gas station. The gas station and canopy are very close to Highway 176 and Clark Road. He stated they need a variance off Jarvis Street, which is a dead end street. There is an entrance off Jarvis Street to the Fast Stop.

James Randy Craig, owner of property on the corner of Jarvis Street and Clark Road, was sworn in. He was concerned with the wreckers loading and unloading cars to businesses on Jarvis Street, and the fact that this was not a county maintained road. If the new building were placed too close to Jarvis Street then the wreckers would have a hard time turning into this street. Mr. Craig was also concerned with water run off into Jarvis Street. If this were a private street, the property owners off Jarvis Street would like Mr. Ravinder to maintain this portion of the street.

Gerald Noe questioned where the water run off was coming from.

Mr. Ravinder stated that he had a 3 to 4 foot slope on one side of property. They will address the water run off problem if they are approved to construct the new building. The water issue may be coming from their ice machine where clean water runs into the street. Mr. Ravinder has checked with the county on this issue, as long as the water was clean water it was ok to run off on the ground.

The Board was in agreement that once the new construction began the water run off issue should be resolved. They did agree that Mr. Ravinder would have to meet the guidelines from the Building Codes and Public Works Department, as well as the Unified Land Management Ordinance. Mr. Sims suggested to Mr. Ravinder to replace the silted ditch and sod over it. The Board advised Mr. Craig to speak with the Roads and Bridges Department to verify if the road was county maintained.

Mr. Noe stated that he felt topography was the issue with water run off and Mr. Ravinder needed to get advice from a civil engineer.

Kerry O'Brien made a motion to grant the variance as requested. Ronnie Culbreth seconded the motion. The vote carried unanimously.

**Michael Garner** - Laurie Horton, Land Use Inspector, still under oath. She presented the findings of fact to the Board:

Michael and Ivey Garner are proposing to place a mobile home for her mother on the property where their home is located. The property is located on Stone Station Road, which has a recorded 20-foot access easement to their 8 acres. The property does not have road frontage on a publicly maintained street and does not meet the requirements of the Unified Land Management Ordinance for the placement of a second structure.

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. . .”

A variance in road frontage will be required in order to meet Table 3. All other requirements of Table 3 can be met.

Ms. Horton stated that Mr. Garner had no road frontage only a 20-foot easement. The Board questioned when the property was purchased. Mrs. Horton was not sure without looking at the deed.

Gerald Lawson opened the public hearing.

Michael Garner, property owner, was sworn in. He stated that the property was owner financed in 2000. He bought the mobile home when the existing renters moved out and was currently paying rent on the land that adjoins Mr. Garner’s property. The property owner has given Mr. Garner a lease until the end of the year. Mr. Garner stated that he was in the process of buying the land freelance from the property owner. He showed the Board where his current home was located on the property.

Shirley Knolls, owner of the property to the rear of the Garner’s, was sworn in. She was concerned with the location of the new mobile home. The Board showed Ms. Knolls on the site plan the location of the mobile home. She was also concerned that Mr. Garner would make his property a mobile home park in the future. The Board explained to Ms. Knolls that he would have to meet all the requirements of the Unified Land Management Ordinance to make this a park. Ms. Knolls stated that she did not have a problem with the placement of the second mobile home on the property as long as a family member would occupy the mobile home, and as long as the mobile home was not placed to the back of her property.

Ms. Horton stated that the Unified Land Management Ordinance did not require a mobile home to buffer against a residential home.

Staff did not have a recommendation.

Laine Farmer, of 360 Templeton Street was sworn in. She was also concerned with the location of where the mobile home would be placed. The Board showed Ms. Farmer the location of the mobile home on the site plan.

Gerald Lawson closed the public hearing.

Mr. Noe asked Mr. Garner who would be occupying the mobile home. Mr. Garner stated his mother in law would be occupying the mobile home.

Mr. O'Brien asked Mr. Garner if he would object to moving the mobile home to the back of the property. Mr. Garner stated that the back of the property did not perk for a septic tank and his home was in the current location for that reason.

Craig Sims made a motion to go into executive session with the County Attorney. Jackie Moss seconded the motion. The vote was unanimous. The Board went into executive session.

Mr. O'Brien made a motion to come out of executive session. Craig Sims seconded the motion. The vote was unanimous. The Board came out of executive session and stated no action was taken.

Jackie Moss made a motion to grant the variance based on the fact that the property was unique and this related to family medical hardship, under the stipulation that a family member occupied the mobile home. Craig Sims seconded the motion. The vote was five to one in favor of granting the variance. The Board member against the variance was Gerald Noe. The motion carried to grant the variance.

The Board and County Attorney advised Mr. Garner that he would not be able to subdivide his property and only a family member could occupy the mobile home. If he did decide to subdivide, he would have to go before the Planning Commission under a private road subdivision since there is no road frontage.

**Reidville Road Retail Center** – Albert Lee, Land Use Inspector, still under oath. He presented the findings of fact to the Board:

Josh Kale is building a strip shopping center at 2932 Reidville Road. He has installed a nine-foot retaining wall and raised the elevation of the property well above adjacent properties. The property is adjacent to Shadow Lakes Subdivision on the left and commercial (Pet Vac) on the right.

The Unified Land Management Ordinance calls for a Class 5 buffer to separate residential subdivisions and high intensity commercial uses. Staff required a Class 5C buffer which is an 8 foot masonry wall within a five-foot strip, the only buffer that would fit into Mr. Kale's site design.

The eight-foot buffer wall placed on top of the retaining wall will result in a 17-foot wall. Mr. Kale is requesting to change the Class 5C (8-foot masonry wall) to an eight-foot wooden privacy fence with no strip—a class not in the ULMO, but most closely resembling a Class 1d buffer. He is seeking a variance from the Unified Land Management Ordinance, Section 2.02-2 Bufferyards.

Mr. Kale will be able to meet all other requirements of the ULMO.

Mr. Lee stated that Mr. Kale would like to build a buffer that is not in the ordinance.

The Board looked over the site plan for the Reidville Road Retail Center.

Gerald Lawson opened the public hearing.

Staff did not have a recommendation.

Mr. Josh Kale, with Clayton Construction Company, was sworn in. He plans to build a strip center off Reidville Road. The property is adjacent to the Shadow Lakes Subdivision. He stated that he currently had an eight-foot retaining wall. He stated that his property was already unique in that they purchased approximately 10,000 yards of fill. They have two existing concrete retaining walls that range up to nine feet tall. If he adds an eight-foot tall masonry wall on top of a nine-foot retaining wall, this would create an extremely industrial look to the property. Mr. Kale requested that instead of an eight-foot wall on top of a retaining wall, he would like to place an eight-foot wooden privacy fence on top of the retaining wall. This will architectural help break the wall up visually. He presented to the Board a drawing of the new proposed wall, which was entered into the record as Exhibit #1. The new proposed wall would range up to 17-feet high. If he goes with the wooden fence, he would have to put in steel supports on the inside. He would have steel post coming out of the concrete. The Shadow Lakes Subdivision would not see the steel supports. If a masonry wall were placed on top of the retaining wall, they would already have a re-enforcement wall set up. He would like to work with the neighbors by providing a wooden wall on top of the masonry, which will make the property look a lot less industrial. He plans to maintain the fence by weatherproofing.

No one was present to speak for or against the variance.

Gerald Lawson closed the public hearing.

Ray Morris made a motion to deny the variance. The motion died due to lack of a second.

Mr. Sims asked Mr. Kale if he had approached the Shadow Lakes Subdivision on this variance request. Mr. Kale stated that the only contact that he had with the neighbors was when they were looking for dirt to buy from neighboring property owners. Mr. Lee did state that the Shadow Lakes Home Owners Association was contacted by certified mail of the variance request, and no one had contacted him for or in opposition.

Gerald Noe made a motion to deny the variance. Ray Morris seconded the motion. There was a four to two vote against the motion to deny the variance. The Board members for the motion to deny the variance were Gerald Noe and Ray Morris. The Board members against the motion to deny the variance were Craig Sims, Kerry O'Brien, Jackie Moss and Ronnie Culbreth.

There was some discussion among the Board members.

Craig Sims made a motion to approve the variance. This did meet the four criteria as well as aesthetics. He stated that this type of fence would make the Shadow Lakes Subdivision look better. Ronnie Culbreth seconded the motion. The variance was three Board member votes for the variance and three against the variance. The members for the variance were Craig Sims, Ronnie Culbreth and Kerry O'Brien. The Board members against the variance were Gerald Noe, Ray Morris and Jackie Moss. The motion to approve the variance was denied due to the fact that the Board failed to achieve a two-thirds vote. No action was taken and staff's recommendation was upheld to place an 8-foot masonry wall on top of the retaining wall.

**Proposed Grocery Store** - Laurie Horton, Land Use Inspector, still under oath. She presented the findings of facts to the Board:

O. Johnson Small of JSI – Roebuck, LLC is proposing to construct a grocery store at 4825 Highway 221, Roebuck. The Unified Land Management Ordinance classifies a grocery store as a high intensity use and requires a class 5 buffer when high intensity adjoins residential property. They are requesting a variance to reduce the required buffer yard from a class 5 to a class 3b along the right property line.

Lynn Solesbee, represented O. Johnson Small, was sworn in. The property has several factors that are extraordinary and exceptional, there is currently a 50 foot right of way for Colonial Gas Pipeline which impacts the site layout plan and grading. Two roads East Blackstock Road and Highway 221 create a narrow parking area. In addition, SCDOT has recently acquired 20-25 feet of the right-of-way on Stone Station Road. Mr. Solesbee stated that they were requesting a class 3 b buffer for these factors. Plantings would create a softer look as a buffer and the fact they only have 15' feet of space to work with. Mr. Solesbee did state that he was not aware of the neighboring property owner's opinion on this variance. He stated that they plan to import 20,000 yards of dirt. The elevation of the floor will be approximately six inches higher. Mr. Solesbee presented to the Board a site plan which was entered into the record as Exhibit #3. They plan to place a parking lot over the Colonial Gas Pipe Lines.

Mr. Noe asked how many curb cuts would be off Stone Station Road. Mr. Solesbee stated that this did fall into the grading site distance and that he had met with D O T several times. They are currently obtaining a permit for sewer from Spartanburg Sanitary Sewer District, which would go from Hardees to Highway 221.

George Nash, adjoining property owner, was sworn in. He stated that he did not have an objection to Food Lion going in this area but had some concerns with the buffer yard. The adjoining property owners in the area had hoped that a wall instead of shrubs would go up as the buffer. Mr. Nash was also concerned with a big hole on the property that has been dug and how would this be addressed. Mr. Solesbee stated that a chain link fence would go around this hole for safety reasons. In addition, Mr. Solesbee stated that they had decided to go with shrubs instead of a wall for the reason that extra water from the catch basin would not flow freely through a wall and would cause water back up onto Mr. Nash's property. Mr. Nash stated that after hearing Mr. Solesbees reason for the shrub plantings that this may be a better idea. Mr. Lawson agreed that a vegetative wall would look better than a masonry wall if property maintained.

Mr. Morris stated that in order to place a wall as a buffer they would have to put in a collection system. The Board agreed that an opaque screen would solve some drainage problems. The Board stated that the vegetation would have to be tall enough to buffer against the lighting in the parking lot.

The Board questioned if a masonry wall was placed as a buffer would a variance be required.

Mr. Solesbee stated that they were proposing to plant 32 large trees and 139 medium shrubs. They would be planting as much vegetation as they could in an attempt to make this as thick of a screen as they could.

Melissa Solesbee, landscaping architect for Grey Engineering Consultants, was sworn in. She stated that the shrubs would be evergreen all year round and would grow up to 10 feet tall. The shrubs would be planted two rows deep. She plans to use Bald Cypress, which are deciduous. Bald Cypress tends to be narrow in the beginning and would eventually spread out. Mr. Noe stated that Ms. Solesbee needed to mix evergreen in as a buffer. Ms. Solesbee stated there was not a big selection of large evergreen trees. The Board had some questions on how the shrubs and trees would shade the light from shining into the adjoining residential neighborhood. Mr. Solesbee stated that the lights over the building would shine downward over the doors and walls of the new proposed building for security. He did state that there was some potential for minimal light to shine onto Mr. Nash's property.

Mr. Nash asked Mr. Solesbee how the proposed buffer yard be maintained. Mr. Solesbee stated there was a warranty with the landscaper and it is in the agreement that the buffer is to be maintained. If the plants should die then they are to be replaced as stated in the agreement.

Gerald Lawson closed the public hearing.

Mr. Noe made a recommendation to the landscaping architect to review the proposed buffer yard plan and for Mr. Solesbee to be sensitive to the lighting issue. Mr. Noe agreed that this was a better solution than to make them put up a block wall as a buffer yard.

Gerald Noe made a motion to grant the variance to eliminate the block wall and install the landscape plan, with careful consideration of the type of trees planted at Mr. Nash's property to protect his house from the lights. Ray Morris seconded the motion. The vote carried unanimously.

## **5. Other Business**

The Board voted on the 2006 Land Management Calendar Dates.

Gerald Noe made a motion to approve the 2006 Land Management calendar meeting dates as submitted. Ray Morris seconded the motion. The vote carried unanimously.