

MINUTES
Unified Land Management
Board of Appeals
February 28, 2006
4:30 p.m.

Members Present: Gerald Lawson, Chairman
Craig Sims
Jackie Moss
Kerry O'Brien
Gerald Noe
Roy Pinckney
Kyle Atkins

Absent: Ronnie Culbreth
Ray Morris

Staff Present: Joan Holliday
Laurie Horton
Albert Lee
Savannah Sabo
Freelance Reporting Services, Transcriptions

1. Call to Order

Gerald Lawson, Chairman, called the meeting to order.

2. Approval of Minutes of January 24, 2006

Kyle Atkins made a motion to approve the January 24, 2006 minutes. Roy Pinckney seconded the motion. The vote carried unanimously.

3. Old Business

None

Gerald Lawson informed the public that the hearing for Brendan Carpenter had been with drawn from the public hearing.

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

Mr. Tony Clements, owner of property located at 6011 Melvin Drive, is requesting two variances from the Unified Land Management Ordinance.

- (1) Article 2 Design and Development Standards Section 2.02-1 Dimensional Standards Table 3 front lot set back. Mr. Clements is proposing to add to the front of an existing building, which is an automotive business. When the present building was constructed, the pad extended 20 feet by 100 feet in front of the building. He would like to construct the addition on this pad. Melvin Street is a minor street, which requires a 30-foot front setback from the road right-of-way. He is requesting a 15-foot front set back on the left front side only.
- (2) Mr. Clements is also requesting a variance from Section 2.02-2 Bufferyards. He is proposing to place a warehouse to the right of the existing business. According to the Ordinance, this use is classified as a high intensity use. Table 4 (Bufferyard Requirement) requires that high intensity uses that will adjoin residential uses to install a Class 5 Buffer. Due to Duke Power's right of way (68 feet), Mr. Clements is requesting a variance from a Class 5 Buffer, which is a 50-foot strip wide area to a Class 3d Buffer. A Class 3 Buffer is a strip 15 feet wide on the right and rear sides of the property.

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

Tony Clements, property owner, was sworn in. He stated that his business would like to have more space to load and unload racing engines. He could utilize the existing pad to the front of the building to provide more space to organize for their business and customers.

Craig Sims asked if the other building on the property would be used for storage. Mr. Clements stated that it would be used as a warehouse for storage. They plan to expand the machine shop in the future and expand growth since business had grown. There was no one present to speak for or against the variance.

Craig Sims made a motion to grant a 15-foot front set back on the left front side only and to reduce the buffer yard to a Class 3, which is a strip 15 wide on the right and rear sides

of property. This space would be for a wooden fence and plantings. He stated that it did meet the four criteria due to the size and shape of the property and the Duke Power right a way. Kerry O'Brien seconded the motion. The vote carried unanimously.

Sonia's Project – Albert Lee, Land Use Inspector, still under oath. He presented the findings of fact to the Board:

Mrs. Sonia Walton is proposing to purchase the property located at 5159 Lone Oak Street to convert to a location to hold private parties. She is requesting a variance from the Unified Land Management Ordinance, Section 2.02.2 Bufferyards.

Mrs. Walton proposes to change the use of the property from residential to a commercial use. According to the Ordinance, this use is classified as medium intensity use. Table 4 (Bufferyard Requirement) requires medium intensity uses that will adjoin residential uses to install a Class 5 buffer. Mrs. Walton's property has residences to the left, right, and rear property lines.

Mrs. Walton's property has a masonry wall approximately 3 feet tall on the left along the driveway and also on the right side of the house. There is a chain link fence on the rear of property. She is proposing to have the driveway go around the business and exit onto Lone Oak Street. A Class 5 buffer is a 50-foot-wide strip with plantings, 25-foot wide strip with plantings, or a 5-foot strip with an 8-foot wall. Due to the size of the property and with a proposed new driveway, the wider strips will not fit on the property. She prefers not to replace the existing walls and fence with an 8-foot wall. She is requesting a variance from a Class 5 to a Class 1a buffer. A Class 1a buffer is a row of evergreen trees in a 5-foot wide strip.

Albert Lee presented to the Board photos of the property, which was entered into the record as Exhibit #1.

Gerald Lawson opened the public hearing.

Sonia Walton and Robert T Walton, property owner, was sworn in. Mrs. Walton stated that they intended to hold family parties in the home such as Baptisms, Communion, weddings etc. They would like to remodel the home similar to one in Mauldin, S.C., which is used for the same use. Mrs. Walton also stated that the drive way would exit on to Lone Oak Road. In addition, they intend to have handicap accessible ramps and bathrooms. The Board asked about the hours of operation. Mr. Lee stated that the hours would be daytime or early evening hours.

Gerald Noe entered the Land Management Board of Appeals meeting before the public hearing was closed.

Craig asked what the classification would be on this type of business. Albert Lee stated it would be medium intensity.

Michael Edwards, of 7156 Lone Oak Road was sworn in. He presented to the Board a petition from neighboring property owners, which was entered into the record as Exhibit #1. The neighboring property owners were against the variance request and would like the area to remain as residential. Mr. Edwards expressed concern with the small parking area and stated that there was not enough room for this type of business.

Jackie Moss asked the Elston's if they had signed the petition in the presence of a notary. Mr. Elston stated that there was no notary present when they signed the petition.

Denise and Jimmy Elston, of 7163 Lone Oak Road, was sworn in and stated that they were against the variance request. They own the adjoining property and were apposed to this type of business going in the neighborhood. In addition, they were also concerned with parking. The Elston's stated that with a drive way and buffers there would be no room between the two properties. They also stated that they did not want to see alcohol in the neighborhood. In addition, crime had been an issue in the area.

Jackie Kimbrell, of 7129 Lone Oak Street, was sworn in. She stated that she and her mother lived in the area and was against the variance. She stated that Lone Oak School and a day care facility were located down the road from the new proposed business. She agreed that the property was not large enough for this type of business.

Wayne Bradley, 7125 Lone Oak Street, was sworn in. He stated that he owned the entire length of the rear property and was opposed to the variance request.

Gerald Lawson closed the public hearing.

Jackie Moss explained to the public that if an eight-foot masonry wall was constructed, the project could continue. The Board was here to determine if they could go down to a smaller buffer yard, which was a row of evergreen trees in a five-foot strip.

Craig Sims stated that he was concerned with parking.

Kyle Atkins asked the public if they would rather have trees or an eight-foot masonry wall blocking the property in. He stated that the petition could not stop the owners from developing the property if they met the Unified Land Management Ordinance.

Mr. Sims stated that it would be hard to go from a buffer 5 to a 1a. A 1a would not be enough to buffer this property.

Mr. Elston, already sworn in, restated his concern with where the trees would be planted on the property. He was apposed to the trees being placed on his property or on the property line. The Board discussed the wall and the area between the wall and the adjoining property. Mr. Elston stated that he was still concerned with parking.

Gerald Lawson reopened the public hearing.

Dwayne Murphy, 7156 Lone Oak Road, was sworn in. He asked about the deed restrictions on the property. The Board advised him to go to the Spartanburg County Register of Deeds Department for this information. Mr. Murphy also voiced concern with parking and entering and exiting the property.

Gerald Lawson closed the public hearing.

Craig Sims made a motion to deny the variance due to the amount of opposition present at the meeting. Kerry O'Brien seconded the motion. The vote was five to one in favor of denying the motion. The Board members in favor of the vote were Craig Sims, Kerry O'Brien, Jackie Moss, Gerald Noe, and Kyle Atkins. The Board member against the motion to deny the variance request was Roy Pinckney.

Laws of Fitness - Albert Lee, Land Use Inspector, still under oath. He presented the findings of fact to the Board:

Mrs. Grace Law, owner of the property located at 143 Holden Acers Drive, is requesting a variance from the Unified Land Management Ordinance, Section 2.02-2 Bufferyards.

Mrs. Law has purchased an existing building, which was constructed for agricultural use by the previous owner. She is proposing to change the use to storage and private fitness center. The hours of operation of the fitness center will 4pm to 8pm. According to the ordinance, a fitness center is classified as medium intensity use. Table 4 (Bufferyard requirements) requires medium intensity uses that will adjoin residential uses to install a Class 5 Buffer.

Mrs. Law is requesting a variance of the bufferyard on the right, rear and front lot lines from a Class 5 to a Class 1a buffer.

Mr. Lee presented to the Board photos of the property entered into the record as Exhibit #1.

Gerald Lawson opened the public hearing.

Mrs. Grace Law, property owner, was sworn in. She intended to use the building for storage and personal private training. The hours of operation would be from 4:00 to 8:00 p.m. with approximately four to five people occupying the building. The existing building is sitting in is a cul dac sac that is vacant and currently undeveloped.

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

Gerald Lawson closed the public hearing.

The Board reviewed the sketch of the property, which was entered into the record as Exhibit #2. The sketch indicated that there would be 25 parking spaces available.

Gerald Noe asked which road would the building be accessed off. Mrs. Law stated that the private fitness center would be accessed off Holden Acres Road.

Mr. Sims stated that a future subdivision would be developed on the adjoining vacant property. The Board discussed what type of bufferyard would be appropriate for this type of business against a future subdivision development. The Board was in agreement that the buffer yard request should be changed to a 2a because of the future subdivision development.

Kyle Atkins made a motion to grant the variance from a 5 bufferyard to a 2a because of the future development of a subdivision next door. Roy Pinckney seconded the motion. The vote was unanimous. The Board agreed that since this was not a transitional area, and the shape of the property, a 2a would protect future development in the area.

New Slavic Missionary Church - Albert Lee, Land Use Inspector, still under oath. He presented the findings of fact to the Board:

The New Slavic Missionary Church, located at 611 Ethel Street, Spartanburg, is requesting a variance from the Unified Land Management Ordinance, Article 2 Design and Development Standards, Section 2-02.1 Dimensional Standard Table 3 front lot setbacks.

The Church is proposing a 15-foot by 53-foot addition to the front of the existing Church. This addition will enclose the existing front porch and steps. The addition will not extend beyond the existing porch and steps.

The Church is located on Ethel Road, which is a state collector road and has a 25-foot right-of-way from the centerline. The ULMO requires a 40-foot setback from the road right of way. The Church is now 27 feet from the right of way. The Church is requesting a front setback variance of 13 feet.

Gerald Lawson opened the public hearing.

Irina Maksimov, member of the church, was sworn in. She stated that since the entranceway into the church was narrow, they intended to widen the area. They would like to add bathrooms in the new addition. Ms. Maksimov stated that there would be approximately 20 people occupying the church.

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

Gerald Lawson closed the public hearing.

Jackie Moss made a motion to grant the variance as requested. This addition would enhance the property and would not be a detriment to adjoining properties. Craig Sims seconded the motion. The vote carried unanimously.

Upstate Computer Solutions - Albert Lee, Land Use Inspector, still under oath. He presented the findings of fact to the Board:

Mr. Michael Christopher Tennyson, owner of property located at 1750 Drayton Road, is requesting a variance from the Unified Land Management Ordinance, Article 2 Design and Development Standards Section 2.02-1 Dimensional Standards Table 3 rear set backs.

Mr. Tennyson owns a residence at this address and has been damaged by fire. Mr. Tennyson wants to demo the house and replace it with a metal building, which will be used for commercial use (computer sales and service). The property on which the new proposed building will be located is a corner lot. Drayton Road has been widened and a new right of way has been established. Due to the set backs and shape of the property he is requesting a 17 ½-foot variance of the rear set back.

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

Gerald Lawson opened the public hearing.

Mr. Michael Tennyson, property owner, was sworn in. He stated that the existing property had been damaged by fire. In addition, the owners would not be able to develop the property due to the set backs and shape of the property off Lake Street at the rear of the new proposed building.

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

Gerald Lawson closed the public hearing.

Craig Sims made a motion to grant the variance as requested to reduce the rear property set back at Lake Street to 17 1/2 feet. Kerry O'Brien seconded the motion. The Board agreed that the property had an unusual shape and by granting the variance would not be a detriment to the community. The vote carried unanimously.

C B Mart – Laurie Horton, Land Use Inspector, was sworn in. She presented the findings of fact to the Board:

Patrick Odell, owner of C B Mart, is proposing to add a canopy and replace a non-conforming canopy at 1025 Campton Road. The existing canopy encroaches into the 50-foot setback by 47 feet on Asheville Highway. The new canopy, therefore, will also encroach into the required 50-foot setback. Currently there is a gas pump with no canopy; Mr. Odell is also proposing to add a new canopy, which will encroach in to the required 40-foot setback 19 feet on Campton Road

Mr. Odell is requesting a variance from the Unified Land Management Ordinance, Section 2.02 Dimensional Standards, Table 3 Minimum Setback-Front Lot line on an arterial and collector street. Asheville Highway is classified as an arterial street requiring a 50-foot setback and Campton Road is a collector street requiring a 40-foot setback. The front setback variance requested on Asheville Highway is 47 feet and 19 feet on Campton Road.

Mrs. Horton stated that they would not be coming out any further and intended to place a canopy over one pump.

Gerald Lawson opened the public hearing.

Patrick Odell, owner of C B Mart, was sworn in. He stated that this was an irregular triangle shape property. He would like to add a canopy to the existing pump in order to provide light for the safety of the customers.

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

Gerald Lawson closed the public hearing.

Jackie Moss made a motion to grant the variance since the property was limited by its shape and it was not a detriment to other adjoining properties. Kerry O'Brien seconded the motion. The vote carried unanimously.

Turner Huminski - Albert Lee, Land Use Inspector, still under oath. He presented the findings of fact to the Board:

JHJ Properties, LLC and MAHDC, LLC are owners of an existing building located at 365 E. Blackstock Road, are requesting a variance of the Unified Land Management Ordinance Article 2 Design and Development Standards Section 2.02.1 Dimensional Standards Table 3 rear and front lot set-backs.

The JHJ Properties, LLC is owner of 70% of lots 7 and 8. MAHDC, LLC is owner of 30% of the same lot. They propose to split the property, which includes the building. Since this will be two lots and the building will be affected, they are requesting a zero lot line between the two new lots. According to the Unified Land Management Ordinance to create a flag lot, the rear set back of the front lot is to be 20-foot from the new created lot line and the front of the new rear lot is to be 30-foot from the new created lot line.

Each of the owners will give easement for parking.

Gerald Lawson opened the public hearing.

Karen Huminski and Janet Turner, of 365 B & E Blackstock Road, was sworn in. They stated that their husbands had built the existing building together and had ended their partnership. They plan to remodel. There would eventually be another building built to the back of the property. Turner owns 70 percent of the property and Huminski owns 30 percent.

The Board stated that if this variance were granted they would need to meet the building code regulations and guidelines as well as fire codes between the two buildings.

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

Gerald Lawson closed the public hearing.

Kyle Atkins made a motion to grant the variance as requested. This does meet the four criteria because of the unusual circumstances, this is not a detriment to surrounding properties and both owners were present at the meeting. In addition, they would have to meet the Building Code and Fire Code regulations. Craig Sims seconded the motion. The vote carried unanimously.

After the vote, Gerald Noe left the Land Management Board of Appeals meeting.

Brendan Carpenter – This variance requests was withdrawn from the Land

Management Board of Appeals meeting.

Hugh Fowler Strip Mall – Laurie Horton, Land Use Inspector, still under oath. She presented the findings of fact to the Board:

Herbert H. Fowler, owner of property, is requesting a variance from the Unified Land Management Ordinance, Section 2.02-2 Buffer Yards.

Mr. Fowler is proposing to build a multi-tenant commercial building at 13041 Asheville Highway. According to the Ordinance, a multi-tenant commercial building is classified as a high intensity use. Table 4 (Buffer Yard Requirements) requires high intensity uses that will adjoin residential uses to install a class 5 buffer.

Residential property adjoins the proposed building at the rear. However, the property owner has sent a notarized letter that is in agreement with Mr. Fowler's request.

Mr. Fowler's request, therefore, is to reduce a class 5 buffer to no buffer.

Gerald Lawson opened the public hearing.

Mrs. Horton stated that she had a letter from the rear property owner in favor of the variance.

Hugh Fowler, property owner, was sworn in. He did not have any comments and stated that all the information provided in the packets was self explanatory.

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

Gerald Lawson closed the public hearing.

Craig Sims made a motion to grant the variance as requested. The area was transitional and there was a notarized statement from the rear property owner in favor of the variance. Jackie Moss seconded the motion. The vote carried unanimously.

Adjourn

Kyle Atkins made a motion to adjourn. Kerry O'Brien seconded the motion. The meeting adjourned at 5:57 p.m.

