

Unified Land Management Board of Appeals

January 23, 2007

4:30 p.m.

Members

Present:

Gerald Lawson, Chairman

Craig Sims

Ray Morris

David Long

Kyle Atkins

Gerald Noe

Roy Pinckney

Members

Absent:

Ronnie Culbreth

Jackie Moss

Staff

Present:

David Rutherford, Planning Director

Edwin Haskell

Joan Holliday

Albert Lee

Lee Lawson

Savannah Sabo

Freelance Reporting Services, Transcriptions

1. Call to Order

Gerald Lawson, Chairman, called the meeting to order.

2. Approval of Minutes of December 19, 2006

Gerald Lawson introduced the new Board member, David Long, to the Land management Board of Appeal members.

Craig Sims made a motion to approve the December 19, 2006 minutes as corrected.

Gerald Noe seconded the motion. The vote carried unanimously.

3. **Old Business**

Jarvis Allen - Albert Lee, Land Use Inspector, was sworn in and presented the background information to the Board. He presented to the Board a letter from Jarvis Allen which was entered into the record as Exhibit # 3. Mr. Allen was granted a 6-month extension to clean up his junkyard on August 22, 2006 from the Land Use Board of Appeals. Mr. Allen plans to close his Junkyard as soon as he has removed all the debris from the property. He is working with the Department of Health and Environmental Control daily on removing debris from the property. Mr. Lee stated that Don Arnold with Environmental Services recommended granting Mr. Allen a 30-day extension only.

Jarvis Allen, Junk owner of Junk Yard, was sworn in. He stated that he was in the process of cleaning up his junk yard and was making progress. He stated that DHEC was checking his junk yard every 30 days. He was asking the Board for 6 more months to complete the clean up process.

Gerald Lawson closed the public hearing.

Craig Sims made a motion to grant a 6-month extension with the stipulation that Albert monitors his junk yard every 30 days. Gerald Noe seconded the motion. The vote carried unanimously.

4. **New Business**

Symposium Café - Albert Lee, Land Use Inspector, was sworn in and presented the background information to the Board:

Mr. Glenn Brown, representative of the Symposium Café, is requesting a variance from the Unified Land Management Ordinance Section 2.02-2 Class 5 Buffer yard Options. The Symposium Café is located at 8151 Warren Abernathy Blvd. in Spartanburg.

The applicant has purchased the adjacent vacant lot on the east side of the Café to expand its parking area. The subject property is bordered by an IHOP restaurant on the east lot line, a single family residential unit along the rear and left, and U.S. Highway 29 in the front. The Symposium Café and the IHOP both have cinder block walls for screening along their rear lot lines. The applicant is requesting a variance to substitute the required eight (8) foot high masonry wall with an eight (8) foot high wooden fence to screen the parking area from the residential use lots.

The Unified Land Management Ordinance requires a Class 5C Buffer, which is an eight (8) foot high masonry wall covered with brick or stucco, along the rear and left lot lines of the property. The proposed parking area will be able to meet all the other requirements of the ULMO.

Albert Lee briefed the Board with a power point presentation of the property. He explained to the Board that this case came before the Land Use Board of Appeals in November and was denied.

Gerald Lawson opened the public hearing.

Glen Brown, representative of the Symposium Café, was sworn in. He stated that the request was similar to the request made in the November 2006 Land Use Board of Appeals meeting. The only change was that the new proposed fence had been extended all the way across the back parking area.

Albert Lee let the Board know that the adjacent property owner in question was in favor of the variance request.

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

Gerald Lawson closed the public hearing.

Ray Morris made a motion to grant the variance request with the stipulation that the wooden fence be built to meet the local area wind force. Kyle Atkins seconded the motion. The vote carried unanimously.

Ledgens - Albert Lee, Land Use Inspector, still under oath. He presented the Background information to the Board:

Mr. Bill Dillard is representating of Ledgens which is located at 135 Miller Farm Road, Inman. The existing building, which is a bar and grill, in nonconforming as to the set back on the left side of property. The building measures 6.75 feet to the property line. The Unified Land Management Ordinance requires side setbacks to be 15 feet.

Ledgens is requesting a variance from the Unified Land Management Ordinance Section 4.06 Nonconformities and also from Section 2.02-2 Buffer Yards.

Ledgens proposes to construct an addition to the rear of the existing building by 20 feet by 40 feet.

Bar and grill uses call for a Class 5 buffer due to hours of operation. Ledgens is requesting that the buffer be reduced from the Class 5 buffer to a Class 1 buffer (which is a 6' wooden privacy fence) on the left side due to the set back of the existing building. He is also requesting a variance of 8.25 feet on the left side of the property.

Ledgens will be able to meet all other requirement of the ULMO.

Albert Lee briefed the Board with a power point presentation of the property.

Gerald Lawson opened the public hearing.

Bill Dillard, representing Ledgens and contractor for the project, was sworn in. He presented to the Board several photos which were entered into the record as Exhibit #4. He stated that he would like to attach a 28 x 30 addition to the existing building. This new revised dimension of 28 x 30 will not encroach any closer to the setback line. Mr. Dillard did not have a revised site plan showing the new dimensions. He stated that he could not follow the ditch line for the property lines because of the curvature of the property. They would like to remodel the whole building and have handicap parking available. He also stated that the property was surrounded by commercial.

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

The Board agreed that this would be better for the community.

Gerald Lawson closed the public hearing.

Ray Morris made a motion to grant the variances with the stipulation that the addition did not encroach into the 20 setback to the rear of the property. Roy Pinckney seconded the motion. The vote carried unanimously.

Red's Automotive – Albert Lee, Land Use Inspector, still under oath. He presented the Background information to the Board:

Mr. Clarence T. Bordner, applicant, is the owner of the property located at 4190 Parris Bridge Road, Boiling Springs. Mr. Bordner already has a registered junkyard at this address and proposes to add an Auto sales lot at the road front.

Mr. Bordner is requesting a variance from the Unified Land Management Ordinance Section 2.02-2 Buffer Yards. The Request is to reduce a Class 5 buffer yard to a Class 2d (which is a 6" wooden privacy fence) on the right side of the property.

The Unified Land Management Ordinance classifies car lots as high intensity and requires a Class 5 buffer yard.

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

Albert Lee briefed the Board with a power point presentation of the property. He stated that Mr. Bordner would remove the existing trees and replace a fence against the neighbor's fence as a buffer.

Gerald Lawson opened the public hearing.

Clarence Bordner, property owner, was sworn in. He stated that the property was once a car lot. There was a mobile home on the property as an office trailer. He stated that the neighbor was present at the meeting to speak in favor of the variance request.

William Biggs of 4190 Parris Bridge Road was sworn in. He presented to the Board a letter, which was entered into the record as Exhibit #2. The letter was requesting Mr. Bordner to provide a six foot privacy fence lined with Leyland Cyprus between his residence and Red's Automotive. Mr. Biggs stated that the existing trees had fallen onto his property causing damage to his cars and power lines. In addition, he notified Duke Power and they informed him that they would only trim the tree limbs along the property line. He stated that when Mr. Bordner purchased the property; there was an agreement between them to remove the existing trees along the property line.

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

Gerald Lawson closed the public hearing.

Kyle Atkins made a motion to grant the variance as requested to reduce the buffer yard from a 5 to a 2d on the side property line with a 6 foot privacy fence with the stipulation that the trees be removed off the right side property lines. Craig Sims seconded the motion. The vote carried unanimously.

California Avenue Property - Albert Lee, Land Use Inspector, still under oath. He presented the Background information to the Board:

Mr. John William Burgess and Mrs. Cynthia P. Burgess or the joint owners of the property located at 218 California Avenue, Spartanburg. This property is being divided into two parcels, because of divorce.

According to the proposed plat there will be a 25-foot flag lot created for the rear of property. A directive from the Honorable Thomas E. Thomas (Family Court

Judge) is that the rear setback be 3 feet setback between the property line of front and rear property.

The Unified Land Management Ordinance Section 2.05-4 Lots paragraph 3 (1-5) Flag Lots, states that all must be obtained to create a Flag Lot.

The Burgess's or requesting at a variance of 17 feet be granted.

Albert Lee briefed the Board with a power point presentation of the property.

Edwin Haskell stated the Judge could not issue an order that was in violation of the law. He stated that the divorce decree was dated in 1997 for separation of the property for both parties. The parties never conveyed deeds swapping the property due to an illness that accrued during the divorce. Since the divorce decree, an ordinance precludes such a division because of the limited frontage which exists. The Rhodes are here to request for this procedure to go forward so that the property can be subdivided and recorded. To comply with the judge's order and the Ordinance, a variance would have to be granted by the Board for an additional 17 feet.

Gerald Lawson opened the public hearing.

The order was signed in 1997 and the plat was never recorded affecting the subdivision of the property.

Richard Rhodes, attorney representing the California Avenue property spoke to the Board. He stated the couple agreed to split the property in 1997 and due to an illness, the parties never conveyed deeds swapping the property. The Rhodes are requesting to complete the division of the property.

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

Gerald Lawson closed the public hearing.

Craig Sims made a motion to grant the variance as requested due to the unique circumstances of this case. Gerald Noe seconded the motion. The vote carried unanimously.

Barry Pittman's Body Shop - Albert Lee, Land Use Inspector, still under oath. He presented the Background information to the Board:

Mr. Barry Pittman is the owner of the property and body shop located at 2742 Old Highway 14 South in Greer. The body shop is a nonconforming building as to the left and right set backs. The body shop measures 42 feet across the front. The lot measures 50 feet at the road. The Unified Land Management Ordinance states that commercial use must be 15 feet on each side of property line. The existing building measures approximately 7 feet 6 inches on the left side and approximately 6 inches on the right side.

Mr. Pittman is proposing to construct an addition to the rear of the existing building of 40 feet by 50 feet.

Mr. Pittman is requesting a variance from the Unified Land Management Ordinance Section 4.06 Nonconforming Use. He is requesting a variance of 14 feet 6 inches on the right side and 7 feet 6 inches on the left.

Albert Lee briefed the Board with a power point presentation of the property. He stated that Mr. Pittman owned both properties.

Gerald Lawson opened the public hearing.

Barry Pittman, property owner, was sworn in. He stated that there was a 25' sewer right of way against the left hand side of the property.

Edwin Haskell recommended for Mr. Pittman to combine both parcels. He stated that he could go to the mapping department and request for the two properties to be combined. This would take care of the variance for the right hand side of the property.

The Board agreed that they would have to deal with the variance to the left hand side of the property.

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

Gerald Lawson closed the public hearing.

Craig Sims made a motion to grant the variance for the 7 feet 6 inch on the left side of the property with the stipulation that a map change would be done on the right hand side of the property. David Long seconded the motion. The vote carried unanimously.

Little Billy's Food Store - Albert Lee, Land Use Inspector, still under oath. He presented the Background information to the Board:

Mr. William McDaniel, is the owner of a non-conforming building and property located at 0 Cannan Church Road, Spartanburg. The existing building fronts both Cannan Road and Southport Road. Cannan Road has a road right of way of Ditch to Ditch. Southport has a road right of way of 113 feet from the center of Southport Road.

The existing building is nonconforming, because of the widening of the road and measures 10 feet from Southport Roads right of way. It meets the set back off of Cannan Road.

Mr. McDaniel is requesting a variance from the Unified Land Management Ordinance Section 4.06 Nonconforming use. Also Section 2.02-1 Dimensional Standards Table 3 Front Line Lot Line Set Back a request of 40 feet from Southport Road.

Albert Lee briefed the Board with a power point presentation of the property.

Gerald Lawson opened the public hearing.

Ken Anthony, representing Bill McDaniel, was sworn in. They were in the process of getting power released to the existing building when they were informed that a variance would be needed before power could be released to the existing building. The electrician applied for the variance request and Mr. McDaniel was not aware that a variance was needed until the electrician informed him. The buildings will be used as warehouses. The DOT took most of the buildings, when they started to tear this building down; Mr. McDaniel informed them that they were to take only part of the building, not all. Mr. Anthony stated that all they wanted to do was put the wall back up and hook power back up.

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

Gerald Lawson closed the public hearing.

Craig Sims made a motion to grant the variance as requested. Kyle Atkins seconded the motion. The vote carried unanimously.

Stallion's Coach Works Unlimited - Albert Lee, Land Use Inspector, still under oath. He presented the Background information to the Board:

Mr. Jack Caldwell is the owner of the property located at 441 Frey Road, Spartanburg. The property has an existing garage that has been vacant for some time. The garage measures 17 feet on the left side. Auto repair is classified as high intensity commercial use by the Unified Land Management Ordinance and calls for a Class 5 buffer up to 50 feet set back.

Mr. Campbell is requesting a variance from the Unified Land Management Ordinance Section 2.02.2 Buffer Yards. The request is to reduce a Class 5 buffer yard to a Class 2d (6 foot wooden privacy fence) along the right and left sides of property.

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

Albert Lee briefed the Board with a power point presentation of the property.

Gerald Lawson opened the public hearing.

Jack Caldwell, property owner, was sworn in. He stated that he purchased the property with the intention of making into commercial. He would like to place a fence around the building for security reasons.

Erskine Long, Sr., 440 Frey Road, was sworn in. He stated that the existing building was an eye sore with the roof falling in. There was also a power line lying on the ground and against some unlicensed vehicles on the property. He stated that a 6 ft wooden fence would not hide the eyesore from the adjoining properties. He would like the cars removed off the property.

The County attorney stated that these issues brought by Mr. Long were irrelevant to this case. The Board was here to vote on the buffer yard issue only.

Mr. Lee stated that Mr. Caldwell had already obtained a permit to fix the building up from the Building Codes Department. He was currently working with Don Arnold with Environmental Services to clean up the property.

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

Gerald Lawson closed the public hearing.

Roy Pinckney made a motion to grant the variance as requested to reduce the Class 5 buffer yard to a Class 2d (6 foot wooden privacy fence) along the right and left sides of property. Gerald Noe seconded the motion. The vote carried unanimously.

Gigi's Cafe - Albert Lee, Land Use Inspector, still under oath. He presented the Background information to the Board:

Mrs. Alma Babb is the owner of the property located at 8275 Asheville Highway, Boiling Springs. Mrs. Babb has leased the property and a nonconforming building to Mr. Charles Mullinax to be used as a restaurant and catering service. This property corners Taylor Colquitt Road and Asheville Highway. Both Taylor Colquitt Road and Asheville Highway are state roads. Taylor Colquitt is classified as a collector. Collector roads stated in the Unified Land Management Ordinance, calls for a 40-foot set back from the road right of way.

The existing building is nonconforming and measures 37 feet 6 inches off Taylor Colquitt Road.

Mr. Mullinax is requesting a variance from the Unified Land Management Ordinance Section 4.06 Nonconforming use. He is requesting a variance of 2 and ½ feet from the road right of way of Taylor Colquitt Road.

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

Albert Lee briefed the Board with a power point presentation of the property. He stated that this building used to be a day care and now had changed use to a Café. The building had been vacant for more than 6 months and required a permit to reopen.

Gerald Lawson opened the public hearing.

Mr. Mullinax, representing Gigi's café, was sworn in. He stated that Mr. Lee explained everything in the background information. He had nothing further to say.

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

Gerald Lawson closed the public hearing.

Gerald Noe made a motion to grant the variance as requested. Craig Sims seconded the motion. The vote carried unanimously.

5. Other Business

None

6. Adjourn

Kyle made a motion to adjourn. Gerald Noe seconded the motion. The meeting adjourned at 6:15 p.m.

