

Unified Land Management
Board of Appeals
September 25, 2007
4:30 p.m.

Members

Present: Craig Sims
Ray Morris
Kyle Atkins
Roy Pinckney
Les green

Members

Absent: David Long
Gerald Lawson
Gerald Noe
Jackie Moss

Staff

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

1. Call to Order

Craig Sims, Vice-Chairman, called the meeting to order.

2. Approval of Minutes of August 28, 2007

Roy Pinckney made a motion to approve the August 28, 2007 minutes as submitted. Les Green seconded the motion. The vote carried unanimously.

3. Old Business

Appeal – Jarvis Allen - Albert Lee, Land Use Inspector, was sworn in and Presented the background information to the Board:

Albert Lee briefed the Board on the progress that Mr. Allen was making to clean up his property. Mr. Lee stated that he had made a site inspection two days ago and Mr. Allen had removed several vehicles and had sorted and removed junk and debris from the property.

Profile Heating & Air - Albert Lee, Land Use Inspector, still under oath. He presented the background information to the Board:

Mr. Harold Brown & Mr. Alex Pitts, applicants, are requesting a variance from the Unified Land Management Ordinance Section 2.02-2 Table 4 (Buffer yards).

The applicants have constructed a building to be used as an office. The parcel is adjoined on both side lot lines and the rear property line by single family dwellings.

The ordinance requires a Class four (4) buffer yards along any side or rear lot line when an office is developed next to existing single family dwelling.

The request is to reduce the Class four (4) buffer yard to Class two (2) buffer yard on the left side lot line and to waive the buffer yard requirements along the right side lot line and rear lot line.

Craig Sims opened the public hearing.

Harold Brown, property owner, was sworn in.

Harold Brown, property owner, was sworn in. He stated that they would like to work with the community on both sides of the property for side buffer yard options and stated that they would like to waive the buffer yard on the rear property line against his mother's property.

Albert Lee presented a slide show presentation to the Board of the surrounding properties and Coal Creek Subdivision. In addition he presented several photos of the previous building, as well as photos of the new building. Mr. Lee stated that there was a swell and berm against the Coal Creek Subdivision.

John Rush, 115 Coal Creek Drive, was sworn in. He presented photos to the Board which was entered into the record as Exhibit #1. The photos showed debris on all three sides of the property which caused concern with the upkeep of the property. He was asking the Board to require the owner to plant the required class 4 buffer yard in the Ordinance.

Joe Genobles, 515 Kiowa Drive, was sworn in. He stated that the slide show presentation did not show the true pictures of the building and property. He was asking that all the required buffer yards be installed to protect the surrounding property owners from the business.

Carson Rogerson, adjoining property owner, was sworn in. He was asking for a clarification of the buffer yard options.

Craig Sims explained the classification difference between a class 4 buffer and a class 2 buffer.

Matt Phillips, 111 Coal Creek Drive, was sworn in. He stated that he lived next to the business and was requesting that the required buffer yard be installed. He presented to the Board a copy of the section of the Ordinance that pertains to buffer yard which was entered into the record as Exhibit #2. Mr. Phillips asked the Board to change the required buffer to a class 5 for medium Intensity commercial on all sides. Profile initially permitted the building as a storage shed and changed later to a heating and air business. In addition they changed the type building from S1 or S2 (storage) to a factory industrial moderate hazard occupancy based on 2006 International Building Code laws. The adjoining property owners were concerned with the chemicals that would need to be stored in a safe controlled environment. In addition, the subdivision was concerned with chemical runoff into the existing pond.

John Flaherty, of 619 Latiner Drive, was sworn in. He stated that the required buffer yard should be installed against the adjoining property owners. He stated that there were only 10 dispersed trees on the right hand side with small shrubs which could be easily be seen through.

Joe Wang, 130 Coal Creek Drive, was sworn in. He asked the Board for clarification on the different buffer yard options. He stated that he was originally from Chicago and was not familiar with laws in Spartanburg County on mixing commercial and residential together. He was asking if the HOA could appeal the building permits decision to permit the building after the inspector discovered the change of use on the permit.

Mr. Sims explained to Mr. Wang that the Board was only there to vote on the buffer yards required against the surrounding properties. The Building Codes department would have to address any permitting issues in that department.

Derek Tucker, 618 Latimer Drive, was sworn in. He stated that he was against the variance request.

Alex Pitts, owner of Profile Heating & Air, was sworn in. He stated that they were asking to waive the buffer against the rear of the property because it would obstruct his grandmother's view of the road. They would like to work with the community on the side buffer yard requirements with a Class 2 buffer yard. He stated that they had improved the property and the heating & air business was there long before the residential property owners. He stated that they only had 10 feet on the left side property line to plant a buffer yard in and that a class 4c would not fit.

Craig Sims closed the public hearing.

Ray Morris made a motion to waive the rear buffer yard and made a motion to require a class 4 buffer yard on both sides of the property. Roy Pinckney seconded the motion.

There was discussion after the vote and the motion was on the floor.

Craig Sims called the question of the vote.

The Board voted unanimously to waive the variance request for the required buffer yard along the rear property line. The Board also voted unanimously to deny the reduction of the required buffer yard from a class 4 to a class 2 on the left and to waive the required buffer yard on the right side property line.

4. **New Business**

L & L Tire Repair – Albert Lee, Land Use Inspector, still under oath. He presented the background information to the Board:

Mr. Kenny Lancaster, applicant and lessee, is requesting a variance from the Unified Land Management Ordinance Section 2.02-2 Table 4 (Buffer yards).

The applicant has leased a building, that has been vacant more than six (6) months, to operate an auto repair shop in. The parcel is adjoined by vacant parcels on one side and single family dwellings along the rear property line.

The ordinance requires a Class five (5) buffer yard along any side or rear lot line when an auto repair shop is developed next to existing single family dwellings.

The request is to reduce the Class five (5) buffer yard to a Class two (2) buffer yard along the rear property line.

Albert Lee presented the slide show presentation to the Board. He stated that Mr.

Lancaster had an existing 6' chain link fence on the property. The adjoining properties belong to the applicant.

Craig Sims opened the public hearing.

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

Craig Sims closed the public hearing.

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

Linda Riddle – Laurie Horton, Land Use Inspector, was sworn in and presented the background information to the Board:

Ms. Riddle, applicant, is proposing to place a second residential dwelling on the parcel addressed as 170 Quarter Road, Spartanburg.

The parcel has 67.44 linear feet of road frontage on a county maintained road.

The parcel is 3 acres.

The Unified Land Management Ordinance, Section 2.02-6 Number of Principal Buildings on a Lot, requires that 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....”

Table 3 of the ordinance requires fifty (50) feet of road frontage per residential lot.

The applicant is requesting a 32.56 feet reduction of the required road frontage for two residential lots so she may place the second residential structure on her property.

Craig Sims opened the public hearing.

Linda Riddle, property owner, was sworn in. They originally had four acres and deeded a portion of the land to one of their sons. Mrs. Riddle stated that she had intended for her sons to have land in which to place a mobile home on. She was unaware of the 50 feet per each structure at the time she purchased the mobile home.

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

Craig Sims closed the public hearing.

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

Cameron Decker – Albert Lee, Land Use Inspector, still under oath. He presented the background information to the Board:

Mr. Cameron Decker, applicant, is requesting a variance from the Unified Land Management Ordinance Section 2.02-1 Table 3 Residential Setbacks.

The applicant is proposing to rebuild a residence at 417 Lyman Lake Road. Lyman.

Section 2.02-1 Table 3 states that there must be a five (5) foot building setback from the side property lines.

Mr. Decker is requesting that the Board grant him a variance of three (3) feet setback instead of the five (5) feet setback required by the ULMO.

Albert Lee presented a slide show presentation to the Board.

Craig Sims opened the public hearing.

Michael Decker, applicant, was sworn in. He stated that the property had been recently surveyed and he only needed a one foot variance. The new survey showed that the building would only be 4 feet off of the property line.

Craig Sims closed the public hearing.

Roy Pinckney made a motion to grant the 1' variance request. Les Green seconded the motion. The vote carried unanimously.

Dirk Green's Garage – Albert Lee, Land Use Inspector, still under oath. He presented the background information to the Board:

Mr. Dirk Green, applicant, is requesting a variance from the Unified Land Management Ordinance Section 2.02-1 Table 3 Commercial Setbacks.

The applicant is proposing to construct a garage at 435 E. Frontage Road, Campobello.

Section 2.02-1 Table 3 states that there must be a forty (40) foot setback from the road right of way. E. Frontage Road is a state collector and has a right of way of thirty-three feet from the center line. Table 3 requires that there be a forty (40) foot building set back from the right of way.

The proposed structure will be fifty –three (53) feet from the center line of E. Frontage Road.

Mr. Green is requesting that the Board grant him a variance from seventy-three (73) feet to a fifty-three (53) feet, a variance of twenty (20) feet.

Albert Lee presented a slide show presentation to the Board. He stated that Mr. Green wanted to continue to use the existing septic tank on the property. He was requesting to move the fence and buffer yard over in order to keep the building within the compound. There are existing large trees that buffer against the adjoining properties.

Craig Sims opened the public hearing.

Dirk Green, property owner, was sworn in. He stated that he was intending to move part of the building out of the compound area in order not to lose storage facility for the cars. He was requesting to move the buffer yard to surround the building in order to keep the building with in the compound. He was not sure if he would remove the existing older trees on the property. The new building should be approximately 50' x 90'.

Talmadge Eugene Henderson, 460 E. Frontage Road, was sworn in. He presented several photos to the Board which was entered into the record as Exhibit #1 and Exhibit #2. He stated that the property had numerous violations since 1998. Mr. Henderson stated that Mr. Green had continued to pile junk outside of the junk yard compound and across the street. He has not been a good neighbor for several years and continued to ruin the property value in the area. Mr. Henderson has made several complaints to the County Administration Office.

Eric Swofford, 320 Swofford Ridge Road, was sworn in. He stated that this area was an attractive area to live in with natural settings and stated concern with any expansion that would limit the widening of this road. He stated that he was against the variance request and any addition to the junk yard that would affect the road, view of the mountains, and natural appearance of the property.

Jim McAbee, 345 E. Frontage Road, was sworn in. He was concerned that the new addition would affect busy road, and the 20 feet addition would impair the view for someone pulling in and out of the road. He would like the required buffer yard to be

installed for the junk yard. In addition, he requested that the front of the building be buffered.

Albert Lee stated that Mr. Green was aware that a buffer yard was required to completely surround the junk yard with a chain link fence and trees on the outbound side.

Some of the adjoining property owners asked about the pile of metal lying on the ground.

Mr. Green stated that pile of metal would be used for the new addition and he was waiting on the variance approval so that he could obtain the proper building permits.

The Board asked Albert if the junk yard would fall under the new junk yard ordinance. Mr. Lee stated that since the junk yard was not expanding, and the owner was only moving the location of the building, this would not fall under the new ordinance.

Mr. Lee stated that all the business would be conducted inside the compound of the junk yard.

Craig Sims closed the public hearing.

Ray Morris made a motion to deny the variance. Roy Pinckney seconded the motion. The vote was two to two so the motion died due to a tie vote. The members in favor of the motion to deny were Ray Morris and Roy Pinckney. The members against the motion to deny were Les Green and Kyle Atkins.

Dawg House - Albert Lee, Land Use Inspector, still under oath. He presented the background information to the Board:

Mr. Allen Wayne Gathings, applicant, is requesting several variances from the Unified Land Management Ordinance due to Section 4.06-8 Discontinued Nonconforming Use, Section 2.02-2 Table 4 Bufferyard Requirements and Section 2.02-1 Table 3 Building Setbacks.

The applicant is proposing to reopen the existing nonconforming commercial structure as a restaurant. The structure is nonconforming because it does not meet the current minimum building setback requirements for a commercial use. The parcel is adjoined on the left side property line by single family dwelling.

The property according to Section 2-02.2 Bufferyard Requirement Table 4 requires medium intensity commercial to install a Class 4 bufferyard.

The property is a triangle lot and has a single family dwelling on the left side property line. The lot has a state collector road on the front and rear property line, which calls for a forty (40) foot building setback from the road right of way.

The applicant is request that the Board grant him variances for the following:

A reduction of the required Class four (4) bufferyard on the left side property line to a Class two (2) bufferyard. A reduction of the required building setback on Jordan Road from seventy-three (73) feet from the center line to thirty-five (35) feet a variance of thirty-eight (38) feet. A reduction of the required building setback on Highway 357 from seventy-three (73) feet from the center line to sixty-one (61) feet a variance of twelve (12) feet.

Albert Lee presented a slide show presentation to the Board. He stated that the building had been vacant over 6 months and the previous uses were an office, tree nursery, produce and bait and tackle shop. He stated that there was already an existing privacy fence to the rear of the property.

Craig Sims opened the public hearing.

Wayne Gathings, applicant, was sworn in. He presented several photos to the Board which was entered into the record as Exhibit #1. The photos were of the old building. He stated that he had improved the property by adding a new building on the property.

Craig Sims closed the public hearing.

Craig Sims stated that there was an existing fence along the rear property line. In addition, there were trees that would buffer against adjoining property owners. This was an improvement to the area.

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

R 4 Corporation - Albert Lee, Land Use Inspector, still under oath. He presented the

background information to the Board:

Mr. Satpal Rathie, applicant, is requesting a variance from the Unified Land Management Ordinance Section 2.02-2 Table 4 Bufferyard Requirements and Section 4.06-8 Discontinued Nonconforming Use.

Mr. Rathie has purchased the property located at 130 Williams Street, Spartanburg, which is the old Niagara Mill. He is proposing to use the existing buildings as warehouses.

The ULMO states that this use would be high intensity and requires a Class five (5) bufferyard along the right side property line.

Mr. Rathie is requesting that the Board grant him a variance of the Class five (5) bufferyard to no buffer.

Albert Lee presented a slide show presentation to the Board. He stated that Mr. Rathie would buffer against adjoining property owners. The property owners would not see the trucks entering and exiting the property.

Craig Sims opened the public hearing.

Satpal Rathie, applicant, was sworn in. He stated that they purchased the mill a couple of years ago. He stated that he was under a verbal agreement with the neighbors to clean up the property up.

Craig Sims closed the public hearing.

The Board agreed that there was a natural buffer yard along the right side property line. They stated that the applicant would have to come back if the property was ever sold or changed use.

Ray Morris made a motion to approve the variance as requested. Les Green seconded the motion. The vote carried unanimously.

Dave Edwards Toyota - Albert Lee, Land Use Inspector, still under oath. He presented the background information to the Board:

Mr. Dave Edwards, owner, is requesting a variance from the Unified Land Management Ordinance Section 2.02-2 Bufferyards.

Mr. Edwards is proposing to reconstruct his auto sales lot and building located at

2450 Reedville Road. He has purchased two (2) additional lots at the rear of the existing car lot so that he may expand the business.

Section 2-02.2 Bufferyard Requirement Table 4 requires a high intensity commercial use to install a Class five (5) buffer along a minor street as if the property were adjacent.

Mr. Edwards is requesting the Board grant a variance reducing the required Class five (5) bufferyard to a Class one (1) buffer yard along the adjacent property lines.

Albert Lee presented a slide show presentation to the Board.

Craig Sims opened the public hearing.

Dean Anderson, representing Dave Edwards, was sworn in. He stated that they had several discussions with the neighbors and they agreed to install plants instead of a block wall.

William Pierce, adjoining property owner, was sworn in. He recently purchased the property and since the purchase, Mr. Edwards has cut away some of his yard for their expansion. In addition, the light and noise from the business has become a nuisance to the property owners. He stated that he was not aware of a meeting between the developers and the neighbors. He would like to see Dave Edwards Toyota put in the buffer that is required in the ULMO.

Mansel George , adjoining property owner, was sworn in. He stated that he would prefer fence instead of shrubs. He would like Dave Edwards Toyota to put in the required buffer yard in the Ordinance, or a wall similar to Food Lion, which is a buffer yard not listed in the ordinance.

Craig Sims closed the public hearing.

Ray Morris made a motion to deny the variance due to the curve in the road and, the topography of the hill on which the buffer yard was to be placed. He stated that there was not enough room to plant trees or shrubs along the slope of the property.

The Board discussed asking the developers to change the variance request and come back to the October meeting. Dean Anderson suggested using the Food Lion wall as an option to a buffer yard to satisfy the adjoining property owners. He stated that they would like to keep the existing trees.

Ray Morris amended the motion to approve the Food Lion Wall as an option without

trees.

Edwin Haskell, County Attorney, stated that the Board would need to vote the variance up or down without changing the buffer yard to one that does not exist in the Ordinance. He recommended to the Board to ask the developer to withdraw the variance request and come back to the October meeting with the new request. He also recommended for the developer to set up a meeting with the adjoining property owners to discuss their options. He stated that staff would need to advertise the public hearing in the paper so that all the adjoining property owners would be aware of the change.

Ray Morris made a motion to withdraw his motion.

Dean Anderson made a request to withdraw his request for a variance from the Board.

Benny Waldrop Heating & Air - Albert Lee, Land Use Inspector, still under oath. He presented the background information to the Board:

Mr. Benny Waldrop, owner and applicant, is requesting a variance from the Unified Land Management Ordinance Section 2.02-7 Access to Property and Curbs for Non-Residential Uses.

Mr. Waldrop is proposing to construct a commercial use building at 7068 White Avenue and would like to have two (2) driveway cuts.

The ULMO requires the following:

- A distance of curb cuts from adjoining property lines shall be five (5) feet measured from the beginning of the turning radius.
- Turning radius of the curb for commercial development shall be a minimum of thirty (30) feet.
- Distance between curb cuts or driveways shall be seventy (70) feet on a collector street.

Mr. Waldrop is requesting the following variances:

1. The distance of the curb cut from the adjoining property line to be a five (5) foot variance.
2. A variance from thirty (30) feet to fifteen (15) feet on the turning radius of curb cut.
3. A reduction from seventy (70) feet to thirty-five (35) feet of required distance between curb cuts.

Mr. Mark Ellis, applicant, is requesting a variance from the Unified Land Management Ordinance Section 2.02-2 Table 4 (Buffer yards).

The applicant proposes to construct a building for a machine shop. The parcel is adjoined on both side property lines by single family dwellings. The property that adjoins the rear property line is vacant.

The ordinance requires a Class five (5) buffer yards along any side or rear lot line dwellings.

The request is to reduce the Class five (5) buffer yard to a Class three (3) buffer yard along the both side property lines.

Albert Lee presented the slide show presentation to the Board. He stated the area is transitioning to commercial.

Craig Sims opened the public hearing.

Brain Evans, representing Waldrop Heating & Air, was sworn in. He stated that they were asking for the variance due to the safety of the tractor trailer trucks exiting the property. Mr. Evans stated that they would need two drives to enter and exit the property off of White Avenue instead of Highway 176.

Benny Waldrop, property owner, was sworn in. He stated that he was asking for the variance for the safety of the truck drivers so that they could drive straight up to the loading docks off White Avenue. He stated that trucks turning right on Asheville Highway toward Hearon Circle would create a safety hazard.

Craig Sims closed the public hearing.

Ray Morris recommended to the owner to possibly reduce 1 parking space on the right hand side and give more room for a turning radius. He was concerned with tractor trailer trucks entering on White Avenue.

Craig Sims agreed that by eliminating one parking space would create enough room for trucks to turn in off Highway 176.

Kyle Atkins made a motion to grant

5. Other Business

None

6. Adjourn

Ray Morris made a motion to adjourn. Les Green seconded the motion. The meeting adjourned at 7:01 p.m.

