

Unified Land Management Board of Appeals

March 25, 2008
4:30 p.m.

Members Present: Gerald Lawson
Craig Sims
Kyle Atkins
Gerald Noe
Marion Gramling
Michael Henthorn
Jackie Moss

Members Absent: Roy Pinckney
David Long

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

1. Call to Order

Gerald Lawson, Chairman, called the meeting to order.

2. Approval of Minutes of February 26, 2008

Craig Sims made a motion to approve the February 26, 2008 minutes as submitted. Marion Gramling seconded the motion. The vote carried unanimously.

3. Old Business

Appeal – Jarvis Allen - Albert Lee, Code Enforcement Officer, 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. He stated that Mr. Allen was in the process of removing lumber and wood off the property and making progress to clean up the property.

4. **New Business**

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

Mr. Gary Stanfield, applicant, is requesting two variances from ULMO Section 2.02-2 buffers Table 4.

The applicant wants to construct a commercial building to house a Dollar General Store. The lot to be developed is vacant and is located on US Hwy 221) outside of Enoree, SC.

There are single-family residential uses on the adjacent lots to the north and south of the proposed new development. The Unified Land Management Ordinance (section 2.02-2) classifies a retail store as a medium intensity commercial use and is required to have a Class 5 bufferyard installed when contiguous to lots with existing single family residential uses.

The applicant is requesting the first variance to reduce the class of the bufferyard along the north side lot line from a Class 5 down to a Class 1 along the parking lot and a Class 4 parallel to the building.

The second variance request is to reduce the required Class 5 buffer yard along the south side lot line down to a Class 2 buffer yard.

Gerald Lawson opened the public hearing.

Jerry Easler, Property Owner, was sworn in. He authorized Tyler Baldwin to represent the case.

Tyler Baldwin, representing Dollar General, was sworn in. He presented to the Board a larger site plan, which was marked into the record as Exhibit #1. He stated that they were having trouble fitting in the required 25 foot buffer yard for the property. They would need additional room for the retention pond, parking area, etc. Mr. Baldwin was asking for a reduction of the buffer yards on both sides due the topography of the area and rail road to the rear of the property. The adjoining property owners on the North and South Side of the property were present to state that they do not have a problem with the

variance request. He stated that the Dollar General would be a positive asset to the community which would create new job opportunities for the community.

Gerald Lawson closed the public hearing.

Craig Sims made a motion to grant the variance as requested. Kyle Atkins seconded the motion. The vote was four to one in favor of the motion to grant the variance. The members in favor of the motion were Craig Sims, Kyle Atkins, Marion Gramling and Michel Henthorn. The member against the motion was Gerald Noe.

East Coast Granite & Tile, Inc. – Laurie Horton, Land Use Inspector, already sworn in, presented the background information to the Board:

Mr. Ivan Karastawov, applicant, is requesting a variance from ULMO Section 4.04 Conversion of Residential Property. The property is located at 2536 Boiling Springs Road in Boiling Springs, SC.

The Unified Land Management Ordinance Section 4.04 Conversion of Residential Property states, “When the conversion of a house to a commercial use is proposed, the house shall be made to meet all applicable codes for commercial buildings. . . . All parking, landscaping, buffering, and other requirements of this Ordinance for the commercial use of the property shall be met.”

The applicant is proposing to change the use of the property from residential to a light industrial use. There are four issues that are preventing the applicant from meeting the requirements of ULMO Section 4.04:

1. The property to the north of the applicant’s lot is a residential use lot. ULMO Section 2.02-2 Table 4 requires a Class 6 buffer between the proposed light Industrial use and the existing single-family residential lot.
2. The existing house fronts on an arterial road (Boiling Springs Road) with a front setback of forty-two point six (42.6) feet from the road right-of-way. ULMO Section 2.02-1 Table 3 requires a light industrial use to have a front setback of fifty (50) feet from the right of way of an arterial street.
3. The lot is a double frontage lot and the existing garage fronts on a collector street (Rocky Branch Road) with a setback of twenty-nine point three (29.3) feet from the road right-of-way. ULMO Section 2.02-1 Table 3 requires a front setback of forty (40) feet from the right of way of a collector street.

4. ULMO Section 2.02-1 Table 3 requires all light industrial use structures to observe a required setback of fifteen (15) feet from the side lot line. The garage at the back of the property sits at the closest end eleven point nine (11.9) feet along the south side property line.

The variance request is for relief from Section 4.04 Conversion of Residential Property. The ULMO does not allow the conversion of a residential unit to commercial that can not meet the standards for commercial uses set forth in the ordinance. The request includes the following:

1. A reduction of the Class 6 buffers down to a Class 3d along the north side property line. (ULMO Section 2.02-2 Buffer yards Table 4)
2. A reduction of the required front yard setback for the existing house along Boiling Springs Road from fifty (50) feet to forty-two point six (42.6) feet measured from the right-of-way. (ULMO Section 2.02-1 Dimensional Standards Table 3)
3. A reduction of the required front yard setback for the garage along Rocky Branch Road from forty (40) feet to twenty-nine point three (29.3) feet measured from the right-of-way. (ULMO Section 2.02-1 Dimensional Standards Table 3)
4. A reduction of the required side yard setback from fifteen (15) feet to eleven point nine (11.9) feet (Section 2.02-1 Dimensional Standards Table 3).

Laurie Horton stated that staff did not support the variance request due to the fact that the project did not meet the four criteria listed in the SC Code of Laws. She explained to the Board that the property owner wanted to change the use of the property from residential to light industrial use.

Gerald Lawson opened the public hearing.

Mr. Alex Foksha, applicant, was sworn in. He stated that he purchased the lot with two existing buildings on the property. He stated that they planned to open a granite shop and would have a delivery truck deliver to the site once a week off of Rocky Branch Road. In addition, they would not have many customers coming to the site, but to the showroom off of Howard Street. Mr. Foksha requested not to have to put up

the concrete wall but a fence instead as a buffer. He stated that the property owner was in agreement with the variance request and this would be more appealing than a concrete wall. Mr. Foksha stated that he planned to have a machine on the site to cut the granite into pieces. In addition, the machine would be located inside the shop and would not be heard outside the shop. He presented several photos to the Board which was entered into the record as Exhibit #1. He explained to the Board that he would use a water filtration system to keep the dust down inside the building.

Gerald Lawson closed the public hearing.

Craig Sims made a motion to go into Executive Session with the County Attorney. Jackie Moss seconded the motion. The vote was unanimous. Gerald Lawson explained to the public that they would get legal advice from the county attorney and no decision would be made.

Kyle Atkins made a motion to come out of Executive Session with the County Attorney. Craig Sims seconded the motion. The vote carried unanimously.

Alex Foksha explained to the Board that the dust from the tile would be washed into a filtration system within the machine and not the sewer system.

The Board agreed that this would be an industrial type business surrounded by several medium intensity commercial businesses. They stated that East Coast Granite and Tile would need to relocate to an area that was classified as industrial. The Board also agreed that there were not extraordinary or preexisting conditions that would allow this type of business to go in this area.

Marion Gramling made a motion to deny the variance. Craig Sims seconded the motion. The vote carried unanimously.

Kyle Atkins left the meeting at 5:20 p.m.

Skipper Trucking – Albert Lee, Codes Enforcement Officer, still under oath, presented the background information to the Board:

Mr. Ronald Skipper, the applicant, is requesting a variance from the Unified Land Management Ordinance Section 2.02-2 Buffer yards.

The applicant's property is located at 531 Honeysuckle Road outside of Spartanburg, SC and the applicant operates a junkyard business on it.

The property that adjoins the applicant's lot on the south side lot line has an existing residential use.

The ordinance calls for a class five (5) buffer yard when a junkyard use is adjacent to residential use lots or is located directly across a minor street from a residential use lot.

The applicant is requesting the following variances:

1. A reduction of the required Class five (5) buffer yard down to a Class one (1) buffer yard along a south side lot line, which would be an existing six (6) foot high chain linked fence within ten (10) feet of the property line.

Albert Lee presented several photos to the Board of the junk yard and surrounding properties. He informed the Board that Mr. Skipper went before the Junk Yard Board in May of 1993. He stated that the records indicated that the meeting was carried over to a later date and never brought back before the Junk Yard Board for a final decision. In the meeting held on May of 1993, the Board had granted Mr. Skipper until June of 1993 to clean up his junk yard. In addition, there were no records to indicate that the progress was ever brought back before the Board for a final decision. Albert Lee explained to the Board that Mr. Skipper had come back before the Land Use Board for an appeal on the decision to leave his fencing and screening as is, in order to come into compliance with his annual renewal fees.

Gerald Lawson opened the public hearing.

Ronald Skipper, Junk Yard Owner, was sworn in. He stated that a variance was granted in 1993 and his junk yard was in compliance with the Junk Yard Ordinance at that particular time. He asked the Board to approve his existing junk yard as is.

John Mason, 1118 Dorothy Street, was sworn in. He stated that he did not have a problem with the variance request.

Joseph Burgess, 121 Dorothy Street, was sworn in. He stated that he did not have a problem with the variance request.

Gerald Lawson asked Mr. Mason and Mr. Burgess to point out on the topography photo which property belonged to them.

Tom Patterson, 530 Honey Suckle Road, was sworn in. He stated that he did not have a problem with the variance request.

Kristy Jones, 540 Honey Suckle Road, was sworn in. She stated that she did not have a problem with the variance request.

Mr. Skipper stated that he would not classify him as a junk yard but only an auto sales lot.

Gerald Lawson closed the public hearing.

The County Attorney stated that the grandfather provision in the ULMO stated that as long as there was not a change of use or more intense use, then the junk yard could continue to operate.

Joan Holliday stated that the original Junk Yard Board made the Junk Yards register and comply with the fencing and screening requirements in the Land Use Ordinance. In addition, she explained that the original Junk Yard Board took the individual junk yards on a case by case basis. Joan Holliday stated that she was not sure why the original junk yard appeal case in 1993 was never completed.

Edwin Haskell explained to the Board that staff was trying to complete their junk yard records to show that the situation had been resolved so that they could work in the future on case by case. He explained to the Board that the appeal had a strong grandfather position and that any findings would complete the record on this particular parcel. In addition, the County Attorney stated that this appeal would create a base line to deal with any future changes or change of use.

Marion Gramling made a motion that this Board recommend to staff that pre existing conditions existed for the change of use in 1999 when the ULMO was adopted and the Board had come to the conclusion that a variance was not necessary for this particular case. In addition, the County had inspected the property for 16 years and there had not been any notice of violations at this particular time. Craig Sims seconded the motion. The vote carried unanimously.

Jackie Moss left the meeting at 5:47 p.m.

Jerry Mason Enterprises - Albert Lee, Codes Enforcement Officer, still under oath, presented the background information to the Board:

Mr. Jerry Mason, the applicant, is requesting an appeal of the determination that his junkyard business is not a continuation of legal nonconforming use by an enforcement officer of the Unified Land Management Ordinance.

The applicant's property is located at 1395 Mason Road in Chesnee, SC.

ULMO Section 3.19-3 (Junkyards Fencing and Screening) requires all junkyards shall be enclosed on all sides by one of the following that shield the junkyards from view:

1. A chain link fence with evergreen screening of an approved type; or
2. Where evergreen screening is not possible, a chain link fence with vinyl strips or slats woven into the fence fabric may be used upon approval by the ordinance administrator; or
3. A wooden or masonry privacy fence; or
4. Other type material which has been given approval by the ordinance administrator.

The applicant has not maintained the correct fencing and screening along two sections of the junkyard which are along the front setback and the east side lot line.

The applicant was notified about the issue and he advised that his junkyard was legally nonconforming and this made it exempt from the regulations of ULMO Section 3.19-3.

After researching the matter it was determined that the applicant's junkyard did not meet ULMO Section 4.06-3 Continuation (of a Nonconformity).

Albert Lee presented several photos of the junk yard to the Board which was entered into the record as Exhibit #2.

Gerald Lawson opened the public hearing.

Jerry Mason, Junk Yard owner, was sworn in. He presented several photos to the Board which was entered into the record as Exhibit #3. He stated that his property had been inspected for the last 16 years like the previous junk yard case and had passed previous inspections.

Gerald Lawson closed the public hearing.

Craig Sims made a motion that this Board recommend to staff to allow Jerry Mason to operate his junk yard with the existing vegetation and that a variance was not necessary for this particular case. Marion Gramling seconded the motion. The vote was unanimous.

5. Other Business

None

6. Adjourn

Craig Sims made a motion to adjourn. Gerald Noe seconded the motion. The meeting adjourned at 5:58 p.m.

