

Spartanburg County

Planning and Development Department



MINUTES Unified Land Management Board of Appeals

November 20, 2018

Members

Present:

Michael Padgett, Chairman
Jack Gowan, Jr., Vice Chairman
Angela Geter
Kae Fleming
Thomas Davies

Members

Absent:

Louise Rakes
Marion Gramling
Jason Patrick
Jonathan Adams

Staff Present:

John Harris, County Attorney
Joan Holliday, Deputy Director
Joshua Henderson, Senior Planner
Leigh Davis, Senior Planner

NOTICE: Pursuant to Section 30-4-80 of the S.C. Code of Laws, the annual notice of meetings for this Board was provided on or before January 1, 2015 via the County website. In addition, the Agenda for this Meeting was posted on the bulletin board at the entrance to the Administration Building as well as on the County's website and was emailed to all persons, organizations, and news media requesting notice.

1. Call to Order

Chairman Mike Padgett called the meeting to order.

2. Approval of Minutes of October 23, 2018 Meeting

Thomas Davies made a motion to approve the minutes as submitted. Kae Fleming seconded the motion, which carried with a vote of 5 to 0.

3. Unfinished Business

**a. Variance Request – Beverly & James Brookshire
302 Palmetto Dr., Greer (9-02-07-007.01)**

Josh Henderson advised the Board that the applicant had requested the variance request be postponed to the December 18, 2018 meeting.

Angela Geter made a motion to postpone this request to the December 18, 2018 meeting. Thomas Davies seconded the motion. The motion carried with a vote of 5 to 0.

4. New Business –

**a. Variance Request – Chick-Fil-A
1790 Asheville Hwy., Spartanburg (6-13-02-021.00)**

Josh Henderson was sworn-in and presented the following staff report:

Factual Dates

| | |
|------------------------------------|------------|
| Variance Application Received | 10/23/2018 |
| Deadline for Variance | 10/23/2018 |
| Public Notice – Herald Journal | 11/04/2018 |
| Adjoining Property owners notified | 11/06/2018 |
| Variance Sign Posted on Property | 11/06/2018 |
| Board of Appeals Hearing | 11/20/2018 |

Background Information

Chick-Fil-A has submitted a variance request for the property located at 1790 Asheville Hwy., Spartanburg, SC 29303. Chick-Fil-A, Inc. is launching a nation-wide initiative to install canopies over the outdoor drive-through to protect the safety of employees.

The applicant is requesting the following variance:

To reduce the side setback to 8’ from 15’ as required in Section 2.02-1 Dimensional Standards, Table 3b – Commercial & All Other Uses – Setbacks & Other Requirements.

Staff Recommendation

The Board may grant a variance if it makes the following findings:

a.) There are extraordinary and exceptional conditions pertaining to the particular piece of property.

The variance request does not appear to meet this criteria.

The property does not appear to contain extraordinary or exceptional conditions, which would require a variance.

b.) These conditions do not generally apply to other property in the vicinity.

The variance request does not appear to meet this criteria.

There do not appear to be conditions that apply to this property that do not apply to other property in the vicinity.

c.) Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

The variance request does not appear to meet this criteria.

The applicant is still able to utilize the property as a drive-through restaurant without the addition of the canopy system.

d.) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

The variance request appears to meet this criteria.

Adjacent parcels are used for commercial businesses and should not be affected by the encroachment created by the addition of the canopies.

Given the lack of extraordinary conditions of the property, the request to reduce the required side setback to 8' from 15' does not appear to meet the four criteria for granting a variance as set forth in Section 5.02-2(2) of the ULMO and the SC Local Government Comprehensive Planning Enabling Act (SC Code of Laws, Title 6, Chapter 29). Therefore, staff is unable to recommend approval of the variances.

Josh Henderson presented the Board with an aerial image, site plan, and street view of the property.

Chairman Padgett opened the public hearing.

Randy Goff, owner/franchisee of this Chick-Fil-A location, was sworn-in. He explained the purpose of unveiling the nationwide canopy program was to expedite customer service, particularly during inclement weather. Mr. Goff advised the Board that traffic backs up into Asheville Highway, especially during peak times, and presents a safety challenge in the parking lot as well as on Asheville Highway. He believes the addition of the canopies will in no way affect the adjoining properties due to the existing wall and vegetation separating the two businesses and vacant land towards the rear where the second canopy would be placed.

Chairman Padgett closed the public hearing.

Jack Gowan made a motion to grant the variance based on the determination that the request meets all criteria for granting a variance as set forth in Section 5.02-2(2) of the ULMO and the SC Local Government Comprehensive Planning Enabling Act (SC Code of Laws, Title 6, Chapter 29).

a. The Board concludes that the Applicant(s) does have an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to this particular property based upon the following finds of fact:

The shape of the property is unusually long and narrow, which restricts the location of expansion.

b. The Board concludes that these conditions do not generally apply to other property in the area based on the following findings of fact:

Other properties in the area have different configurations that would not restrict expansion.

c. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property based on the following findings of fact:

Strict application of the ordinance unreasonably prevents Chick-Fil-A from protecting the safety of their employees and moving traffic off of Asheville Highway.

d. The Board concludes that the authorization of the variance will not be of substantial detriment to adjacent property or the public good, and the character of the district will not be harmed by the granting of the variance based upon the following findings of fact:

Adjacent parcels are used for commercial businesses and should not be affected by the encroachment created by the addition of the canopies.

Kae Fleming seconded the motion. The motion carried with a vote of 5 to 0.

5. Other Business –

Discussion of 2019 Land Management Board of Appeals meeting calendar dates.

6. Adjournment

There being no other business, Thomas Davies made a motion to adjourn.

Angela Geter seconded the motion. The motion carried with a vote of 5 to 0.