

ZONING BOARD OF APPEALS



Minutes of the Meeting



December 9, 2009

ATTENDANCE	A regular meeting of the Zoning Board of Appeals was held on Wednesday, December 9, 2009, in the conference room of the Sumter City-County Planning Department, 12 W. Liberty Street. Eight board members – Mr. Larry Weston; Mr. James Price; Mr. Sam Lowery; Mr. L.C. Frederick; Mr. Charles Drayton; Ms. Kay Stockbridge; Mr. James Lowery; Mr. Albert Douroux - and the secretary were present. Ms. Kristi Curtis was absent. The meeting was called to order at 3:00 p.m. by Mr. Larry Weston, Chair.
MINUTES	A motion to approve the October 14, 2009, meeting minutes was made by Mr. Charles Drayton. The motion was seconded by Mr. James Lowery and carried a unanimous vote.
NEW BUSINESS	<p>BOA-09-22, 1003 Broad Street (1017) (City) was presented by Ms. Helen Roodman. The board reviewed the request for special exception approval to operate a liquor store (SIC Code 592) in a tenant space on property located at 1003 Broad Street (1017) and represented by Tax Map #229-01-01-005. Mr. Blumpuh Velagapudi was present to speak on behalf of the request. After little discussion, a motion was made by Mr. Charles Drayton to approve this request. The motion was seconded by Mr. L.C. Frederick and carried a unanimous vote. The request was approved.</p> <p>BOA-09-23, 341 W. Liberty Street (City) was presented by Ms. Susannah Smith. The board reviewed the request for a 9 ft. side setback variance to erect a freestanding sign for property located at 341 W. Liberty St. and represented by Tax Map #228-11-04-024. Mr. Henry Todd was present to speak on behalf of the request. After little discussion, a motion was made by Mr. James Lowery to approve this request. The motion was seconded by Mr. Charles Drayton and carried a unanimous vote. The request was approved.</p>

BOA-09-24, 3680 Wedgefield Road (County) was presented by Ms. Claudia Rainey. The board reviewed the request for a variance from Article 3, Section 3.d.6.c requiring mobile homes within the AC zoning district to be placed with the longest dimension parallel to the lot frontage for property located at 3680 Wedgefield Road and represented by Tax Map #183-08-01-005 & 183-08-01-012. Jim and Krista Jennings were present to speak on behalf of the request. After little discussion, a motion was made by Ms. Kay Stockbridge to approve this request. The motion was seconded by Mr. L.C. Frederick and carried a unanimous vote. The request was approved.

BOA-09-25, 20 Gertrude Drive (City) was presented by Ms. Claudia Rainey. The board reviewed the request for a 8 ft. front setback variance to allow for the construction of a covered porch for property located at 20 Gertrude Dr. and represented by Tax Map #229-08-01-021. Ms. Connie Morse was present and spoke in favor of the request. After some discussion, a motion was made by Mr. James Price to approve this request based on the following 4-part test:

- 1. There are extraordinary and exceptional conditions pertaining to the particular piece of property.*

With the consideration of the curvature of the street which makes this property an exceptional piece of property and based on the fact that putting a porch on there or leaving a porch off is not going to make this lot anymore conforming or non-conforming.

- 2. These conditions do not generally apply to other property in the vicinity.*

The conditions are applying to some properties in the neighborhood, some appear to be conforming and some not. We are talking about old neighborhoods, and there is a lot that you can't do anything about.

- 3. 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.*

Denying them a porch to put two rocking chairs on is an unreasonable restriction.

4. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.

It does not harm the character of the district; I make my motion to approve.

The motion was seconded by Mr. L.C. Frederick and carried a unanimous vote. The request was approved.

BOA-09-26, 1029 Broad Street (City) was presented by Ms. Susannah Smith. The board reviewed the request for a variance from the number of required parking spaces for an eating establishment as required by Article 8, Section J, Parking Regulations – Exhibit 23, and a variance from the landscaping and bufferyard requirements as required in Article 8, Section D, Landscaping Standards and Article 8, Section 8.j.3.k. Buffering and Landscaping for property located at 1029 Broad Street and represented by Tax Map #229-01-01-002. Mr. Steve Pantellodis, applicant; Ms. Parthena Pantellodis, applicant; Ms. Jane Boyles, National Restaurant Properties on behalf of the applicant; and Mr. David Reeser, Charles Smith Company on behalf of the applicant were present and spoke in favor of the request. Mr. Wayne Grovenstein, Hull Storey on behalf of the Sumter Mall and Mr. Jay Moersen, Sumter Laundry and Cleaners were present and spoke in opposition of the request. After much discussion, a motion to approve the request was made by Mr. James Price. The motion is as follows:

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

There are extraordinary and exceptional conditions pertaining to this particular piece of property. It exists as a non-conforming structure and it sits in what could be called our restaurant district. Rendering this property useless would be extraordinary.

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

These conditions do not generally apply to other property in the vicinity because other tracts either have ample parking or already exist as non-conforming. The ability to use this property for its intent does not exist under the ordinances. This does not apply to other properties in the vicinity.

3. 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.

Because of these conditions the application of the ordinance to this particular piece of property would effectively prohibit and unreasonably restrict the utilization of the property. This property has always served as a restaurant. There has not been much interest in this property to be used for anything else. Denying this variance would render this property useless and idle.

4. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.

The authorization of the variance would not be of substantial detriment to the adjacent property owners or public good. Granting the variance would not harm the character of the district. Occupancy approves both the appearance and it approves commerce and the purpose of the ordinance is to accomplish this goal. The Zoning Board of Appeals is in place to prevent the rules from hindering that actual goal.

The motion was seconded by Mr. L.C. Frederick. Some discussion continued between board members before the vote was taken. An amendment to his motion was made by Mr. James Price to require buffering on both sides to prevent cross traffic and anything else can be decided

between the applicant and staff. Discussion continued. Mr. L.C. Frederick called for the question. The motion was repeated by Mr. James Price to grant the variance as articulated by staff or as by request with specific buffering that will prevent cross property line traffic, fencing as they have already agreed to, and buffering on both sides of the parking lot. The motion received a two in favor-Price, Frederick and five in opposition-Douroux, Stockbridge, S. Lowery, Drayton, J. Lowery vote. The motion failed.

Discussion continued between the board members, staff and Mr. Pantellodis. An alternative motion was made by Ms. Kay Stockbridge. The motion is as follows:

The applicant shall provide to planning staff a detailed schematic drawing showing the provision of at least 48 parking spaces including handicap, regular and some sub-compact as permitted; showing attendant landscaping with specifics as to what plantings will be placed, what buffers will be presented, including those dividing parking lots from each other. The permanent buffers between businesses, screening for garbage collecting and utilities, that being the privacy fence screening it from both the side views and rear views and that specifically the retrofitting that pertained to the parking lot size and spaces and to the landscaping requirements and that staff give their approval to that before any work can proceed with this property. The specific numbers, criteria, and 4-part test given by Ms. Stockbridge is as follows:

Parking

- 48 parking spaces including handicap, regular and some sub-compact

Plantings being both trees and shrubs –

- minimum of 9 reasonably sized growth trees
- inclusion of lower level planting shrubs in that area – minimum of 18 small shrubs

Bufferyard

- 4' wide on both sides
- 4' wide in front bufferyard
- 6' privacy fence in back

- must be a specific permanent demarcation between parking lots
- attendant watering system
- all planting shall be installed according to acceptable horticultural standards

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

Given the fact that over a period of time the structure has been enlarged and is now rendered somewhat difficult being outfitted for a restaurant and to continue a use as a restaurant given the size of the building and the number of parking spaces required.

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

The fact that on either side of this property exist two entirely different businesses, one commercial and one retail operation, this is not necessarily affected by the property on either side as to the use there are other establishments in the area but they are across the highway.

3. 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.

Given its past performance as an eating establishment the answer is yes, given the current ordinance and given the size of the building the number of parking spaces required and the lot size available. The allowable space of the development of parking spaces.

4. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.

Providing that there is a permanent demarcation between the property, the laundry and dry cleaners adjacent and this establishment as to their parking areas

	<p><u>and the fact that the applicant understands that they are on the property line and that they may not have access or egress through the adjacent property owners land for facilitating the restaurant then it would not seem to harm the character of the district providing it operates as a restaurant.</u></p> <p>The motion was seconded by Mr. Albert Douroux and carried a six in favor-Stockbridge, Douroux, S. Lowery, Frederick, Price, Drayton and one in opposition-J. Lowery vote. The request was approved with conditions.</p>
OTHER BUSINESS	<ol style="list-style-type: none"> 1. A motion to add the withdrawal of the Special Exception granted to 1029 Broad Street to the January 2010 meeting agenda was made by Mr. Charles Drayton. The motion was seconded by Mr. Albert Douroux and carried a five in favor- Douroux, Stockbridge, S. Lowery, J. Lowery, Drayton and two in opposition- Frederick, Price vote. The motion carried. 2. A motion was made by Ms. Kay Stockbridge to recommend to the Planning Commission that those who make applications for appeals that have specific sizing questions as to lot size, placement of structure, parking spaces, handicap requirements, anything that is of a schematic nature must provide an accurately drawn format for the board to deliberate on rather than a sketch. The motion was seconded by Mr. Albert Douroux and carried a unanimous vote. The motion carried. 3. The 2010 Meeting calendar was presented to the board. A motion to approve the calendar was made by Ms. Kay Stockbridge. The motion was seconded by Mr. Charles Drayton and carried a unanimous vote. The motion carried.
ADJOURNMENT	<p>The meeting was adjourned at approximately 5:36 p.m. The motion was made by Mr. Charles Drayton and seconded by Mr. S. Lowery.</p> <p>The next regularly scheduled meeting will be on January 13, 2009.</p>

	Respectfully submitted, Julie A. Scarborough, Board Secretary
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